Vol. I—No. 2

Tuesday, May 9, 1961
Vaisakha 19, 1883 (*Saka*)

JOINT SITTING OF HOUSES OF PARLIAMENT

DEBATES

LOK SABHA SECRETARIAT
NEW DELHI

ONE RUPEE (INLAND) FOUR SHILLINGS (FOREIGN)

CONTENTS

	COLUMNS
Tribute to Memory of Dr. Rabindranath Tagore .	151—52
Dowry Prohibition Bill	153—314
Motion to consider, as passed by both Houses with amendments agreed to	153
Shri Jaipal Singh	154—58
Shrimati Pushpalata Das	158—65
Acharya Kripalani	166—73
Shrimati Savitry Devi Nigam	173—77
Shrimati Parvathi Krishnan	177—84
Shrimati T. Nallamuthu Ramamurti	184—92
Shri N. R. Muniswamy	193—99
Shri Tajamul Hussain	199—205
Shri Khadilkar	205—12
Giani Zail Singh	212—15
Shri B. D. Khobaragade	215—20
Pandit Brij Narayan "Brijesh"	220—29
Shri Bhupesh Gupta	229—36
Shrimati Krishna Mehta	236—40
Shri Goray	240—45
Shrimati Sharda Bhargava	245—51
Shrimati Mafida Ahmed	251—54
Dr. W. S. Barlingay	254—57
Shri N. B. Maiti	257-58
Shri Sheel Bhadra Yajee	258—62
Shri A. K. Sen	262—76, 278—82
Clauses 2, 4, 1, 3 & 5 to 10.	282—314
Motion to pass .	314
Shri A. K. Sen	314

JOINT SITTING OF HOUSES OF PARLIAMENT

Tuesday, May 9, 1961/Vaisakha 19, 1883 (Saka)

The Houses of Parliament met in joint sitting in the Central Hall of Parliament House at Eleven of the Clock.

[MR. SPEAKER *in the Chair*]

TRIBUTE TO MEMORY OF DR. RABINDRANATH TAGORE

Mr. Speaker: Brother Members of Parliament the first day of the sitting of the Joint Session synchronised with the birthday centenary of the famous politician and statesman, Pandit Motilal Nehru. We paid our humble tribute to him and the whole country celebrated his birthday. Since we adjourned, yesterday happened to be the birthday centenary of Dr. Rabindranath Tagore. We were not in session yesterday. I, therefore, thought it desirable and necessary that I should make a reference and pay our humble homage and tribute to the memory of the great personality who put India on the cultural map of the world.

We have the good fortune of having his portrait here. He was stately in spirit as he was stately in form. In an innate manner he combined in himself the rare talent of a scholar, a poet, a philosopher and an aritist in music, dance, drama and painting. These qualities may be found in abundance in individuals but a happy synthesis and a harmonious blending of them appeared in this great personality. He breathed the life of our ancient culture. He was the symbol of our art, culture and philosophy. His poems were characterised by the spirit of the Upanishads being breathed into them. He carried the message of the *Upanishads* throughout the modern world in addition to doing so throughout the length and breadth of this land, He interpreted life in an innate manner. Not only was he a philosopher and a poet, but he realised all that and showed that in his own life. In whatever he saw he found the immensity of the spirit. To him a single life was pervading the whole universe. Whether he looked at the stars or at the oceans, the rivers, the trees, the flowers or the leaves, he found the single life permeating the whole world and pulsating. He wanted to live a harmonious life between the past and the present and between the known and the unknown. Therefore he established the Shanti Niketan, which literally means the abode of peace. He was a peaceful person.

Having won freedom we are trying to give economic content to that freedom. But a man does not live by bread alone. We must revive our ancient culture the foundations of which are service and sacrifice in our country. We never worship wealth and power for their own sake. We give the top place to the *maharshis*. We live a simple life. May we on this occasion pay our humble homage to him and try to live his life to however small an extent! May his soul guide us from year to year and for all time!

DOWRY PROHIBITION BILL—*contd.*

Mr. Speaker: Now we shall proceed to the business on hand. The other day I requested the House to suggest as to how much time should be allowed for general discussion and how much for the consideration of the amendments. We sat the whole day the other day and decided to devote two or two and a half hours to general discussion today. But you would have noticed that hon. Member after hon. Member who spoke the other day spoke on the amendments and referred to them individually also. In view of the large number of hon. Members from both the Houses who want to speak let there be only one discussion and no clause-by-clause discussion. Whenever hon. Members have an opportunity to speak they may refer to the amendments tabled by them or by other hon. Members along with whatever they want to say during the general discussion stage. Thus I will put all the amendments and the clauses at the end to the vote of the House and there will not be a separate clause-by-clause consideration except voting. There will be the general discussion which will combine both the general discussion and the clause-by-clause consideration. Those who have already spoken will not be affected by this because I found that every one of them addressed themselves in great detail to the various amendments and the clauses. If we proceed on that footing I shall try to accommodate almost every hon. Member. If necessary, I am prepared to sit for the whole night

Shri Bhupesh Gupta (West Bengal): The procedure that you have suggested is quite right but I would only submit that one exception may be made, that is, with regard to the amendment that has suddenly been brought in by Shri Hajarnavis to clause 4. I think that that particular thing should be subject to a little longer discussion because such a matter never came up either in the Lok Sabha or in the Rajya Sabha. Therefore this may be treated somewhat separately.

Mr. Speaker: I will allow him an opportunity to speak.

Shri N. R. Muniswamy (Vellore): While appreciating your anxiety to give a chance to every hon. Member here to speak on the amendments as well as during the consideration of the clauses, may I request you at least to throw some light on one matter? For every amendment that we move it is etter that we get clarification from the hon. Minister so that we divert our attention to the aspects which every hon. Member wants to speak on with regard to a particular amendment.

Mr. Speaker: I am sure the hon. Minister will reply to all the points that have been raised with respect to the amendments that have been tabled. He will meet every one of those arguments in his reply.

The Minister of Law (Shri A. K. Sen): I shall certainly try to deal with all the amendments which have been tabled and which would not be withdrawn before voting takes place.

Sardar A. S. Saigal (Janjgir): At what time will he reply, Sir?

Mr. Speaker: Now, Shri Jaipal Singh who was in possession of the floor may continue his speech.

Shri Jaipal Singh (Ranchi West—Reserved—Sch. Tribes): Mr. Speaker, Sir: The very happy reference you have made to Gurudev enables me to tell this House and the country that we Adivasis have a particular pride in Rabindranath Tagore. Of all the places throughout India it was in an Adivasi village a Santhal village, that he discovered the Abode of Peace. We are particularly proud that we Adivasis have helped him to develop that atmosphere which has made him world-famous for ever.

On Saturday, I said that I opposed the Dowry Prohibition Bill because I

did not believe in the negative approach of prohibition in the matter of social reforms however desirable they might be. No one would dispute that there is scope in our country for many many social reforms. The question is how these social reforms can be brought about. In the present case, it is maintained that every progressive MP should support this Bill. My view is that this is not a progressive Bill. A negative or a prohibitive measure cannot progressive be. I hold that every measure should be the general expression of the people.

In India we are peculiarly placed. Myths are deep. Education is far behind the norm of most democratic countries. Social consciousness is handicapped. Public opinion is difficult to gauge. Legislation is not always under the control of the electorate. We have a ruling Party with an abliging *deus ex machina*. Every time the ruling party is in difficulties in the matter of legislation or in anything else, this *Deus* is brought into the picture to ensure the passage of a Bill.

Opposed as I am generally to prohibition, I would concede one prohibition, the prohibition of the whip in the legislature. I am not doing this to ligten the burden of my hon. friend, the hon. Minister of Parliamentary Affairs. It is not with that view I feel in a democratic process the process is fraught with many many difficulties. But these difficulties have to be faced. There must be this freedom particularly when it comes to social measures, for every individual, specially when he has not had any particular sanction of mandate from the electorate, must be free. There must be no whipping.

My main objection to any prohibitive legislation is that it brings legislation into contempt, into utter contempt sometimes. On Saturday, I thought I would produce here a list of social reforms enactments which had intensified contempt of legislation. Today I would give only one picture and stop at that. According to the 1951 census, there were 61,80,000 married females in the 5 to 14 years age-group; 28,53,000 married males in the age-group of 5 to 14; 66,000 widowers in the 5 to 14 years age-group; 1,54,000 widows in the 5 to 14 years age group. Sir, I am not one of those who hold the Census report as a bible; but none-the-less we have to go by certain figures. Here are these figures. It is with the deepest sense of humiliation that I have given these ghastly figures. They are ghastly.

Shri A. K. Sen: What were the figures before?

Shri Jaipal Singh: Before 1951? I would urge my hon friend the Law Minister to do a little research. The answer is obvious, because it must have been much worse. The latest census figures of 1961, which is not in our possession yet, may show an improvement perhaps—I do not know. But even if there is an improvement, I am inclined to oppose this ridiculous Bill.

I am not prepared to support any piece of legislation which bases its justification on saving some citizens only. I would be stupid to dispute that no good whatever would come out of it. It would be stupid to say that Mr. Morarji Desai's prohibition in Bombay had done no one any good. But has it not made many more people dishonest? That is the point. Has it received the general support of the people? I have already said that there must be general support in the country and we must not encourage contempt of legislation.

Social consciousness is indispensable to social reforms. Long before polygamy became prohibited legally, it had the censure of the unwritten law of society, although—mind you—Hindu religion permitted it. I wish I could be persuaded to believe that this piece of legislation would give an impetus to social consciousness. I could be persuaded to support it.

[Shri Jaipal Singh]

Our educated young people do not have to be told today anything against child marriage; and yet one has only to look through the matrimonial advertisements to see how degrees are commercialised for purposes of marriage. The dowry system, I maintain, cannot be curbed by legal means alone. Those who still want to give, or those who still want to take, dowry will see nothing humiliating in the system or custom. They will find ways and means to circumvent the prohibition. Therefore, our whole social outlook has to undergo a change. As long as marriage remains the only security for a girl, the evil of dowry will perisist in one from or the other. Education is hot the only answer. There are not enough jobs for our educated girls to enable them to be in position to find men of their choice as happens in Western countries. The very object of educating girls is to enhance their value in the matrimonal market. Until our young people are determined to do away with this custom and the stability of marriage is founded more on companionship than financial security, I fear the evil cannot be stemmed by legislation alone.

The National Federation of Indian Women has launched a signature campaign by appealing to the young people to pledge themselves against the dowry system. While this may be a good beginning, it is not enough. All the organisations should pledge themselves to keep alive a vigorous and sustained campaign against all social evils.

Sir, there is a feeling in certain minds as though the dowry system were unique to our country, unique to Indian society. This is not so. All societies have this custom in different guises. Go to the west: there you have marriage settlements. Marriage settlements in western countries are not uncommon.

Sir, I think I have done enough to justify my opposition. Social reform is all to the good. But how to bring it about is the problem and I firmly believe that this is not the way to set about it, and I am particularly worried about the incursion this Dowry Prohibition Bill will make on the social customs of India's ancient millions, the Adivasis. Take my own tribe. There we do not call it a bride's price. The word price is a reprehensible term. Every parent likes to see a child secure in some form or other. Here the figure Rs. 2,000 has been put. Rs. 2,000 is not going to affect any Adivasi household. The questions is not what the quantum is—what is permitted and what is prohibited. The whole social custom which is really, if properly understood, so beautiful among them, is definitely going to be upset. Since the Prime Minister has been brought into the picture, I would like to ask him. Is he going to honour the word he has been doing, out again and again in every book, at every lecture, every talk and every public speech, in regard to the Adivasis, that they must move on *suo motu* with their own momentum, that, while it is desirable that we must try to bring them into a bigger fold, we must not impose anything against their own wish? Sir, I am opposing this measure principally on that ground. I feel that it will be affecting India's most ancient millions. Sir, I oppose this Bill.

Shrimati Pushpalata Das (Assam): Mr. Speaker, Sir, it is a pleasure to hear Mr. Jaipal Singh. I congratulate him as an orator. At the same time let me raise my voice of protest against his argument.

The other day when the great debate was going on I was with rapt attention listening to the speeches, especially of Pandit Thakurdas and Shri Tyagi, because they are veteran parliamentarians. After hearing their speeches I have come to the conclusion that I must revise my opinion. Today, without any hesitation I am

going to support those amendments moved by Shri A. K. Sen in the course of his speech with regard to clauses 2 and 4. Of course, I do not agree with him as far as Explanation I is concerned. There I differ because it it going to strike at the very root of the Bill, and with your permission I want to go to the root of the dowry system.

You know I come from a State where giving and taking of dowry is a sin. Our public opinion is against it. Like the unwritten constitution of England, in Assam conventions are so strong that no one dares to ask for a dowry. Even a proposal must not come from the girl's side; it is below their dignity. The proposal must always come from the boy's side. Of course, question is different when it is a love marriage then either party can take the initiative. But when it is a marriage arranged by the parents, then the proposal must not come from the girl's side. The girl enjoys a status there. It is the handloom which has given the status to the girl there. If time permits I would have liked to open the pages of Assam's history and go into this question, but I will not touch it now.

But I will narrate a small incident that took place in February 1942 when I had been invited to preside over a conference of the Miri Tribal Girls. Many Members will laugh at the funny resolutions they passed. They moved two resolutions. One resolution was that Miri boys must not be allowed to put on long pants—a funny resolution. I did not understand the meaning of that resolution. And the second was that there must be prohibition about the eating of opium. I asked those girls, "Why this resolution about wearing long pants?" The girl said, "We have a custom where the boys have got to pay a dowry to the girls"—because that is a peculiar custom there—"So we want to threaten them that we will not marry them if they want to put on long pants; because they don't work; they are all opium-eaters, such lazy fellows; so we want to check their wearing these long pants". Then I asked the secretary, "Then why don't you leave these worthless fellows?" The answer came out from the innocent unsophisticated girl, "Sister, it is so difficult; neither can they leave us, nor can we leave them". She came out with the eternal truth. So long as there is attraction of flesh for flesh, marriage will be there in any form, whether in the *gandharva* form, veda form, contract form or any other. We even go sometimes to the extent of recognising unmarried mothers: our scriptures gave them recognition.

Here, I can quote the example of Jabali's mother. And who gave her the recognition? It was Dhronacharya. When Jabali went to Dhronacharya to take training under him, Dhronacharya refused to give him training. He wanted to know the *gotra* of Jabali. So Jabali came to his mother and asked her, "Mother, what is my *gotra*?" The mother replied—and here I feel tempted to quote poet Tagore, just a line:

बहु परिचारिया कौरे
पेए छिनु तोरे वत्स,
गोत्र तव नाहिं जानि

Mr. Speaker: She may sing it a little louder. I will treat it as part of yesterday's proceedings of the poet's centenary celebrations!

Shrimati Pushpalata Das: She said. "I am a Harijan girl, and ugly; I wanted to be a mother; I served so many; I do not know who is your father; but this much I can say, I am your mother; that is your *purna parichia*". When Jabali came back to Dhronacharya and told him what his mother had said, Dhronacharya said, "I do not want to know anything more; you are a Brahmin; because your mother has spoken the truth she is a Brahmini". That is our culture.

So we give recognition to so many types of marriages. Here I am standing before a galaxy of intellectuals, I

[Shrimati Pushpalata Das]

know. I throw a simple challenge to all the Sanskrit scholars sitting here, to quote one *sloka* from our scriptures which will support the dowry system—not two *slokas*, one *sloka* is enough for me. Let them quote it to support the dowry system. I consulted the Principal of a Sanskrit College, Shri Maniranjan Shastry of Nalbari College, and asked him to give me some *slokas* which will support the dowry system. Because, when I was going through the proceedings of both the Houses, I found that many of them had said that our ancient custom is against it, our religion is against it, and so many things. He said, "I can give you *slokas* for *jauthaka* not for *barpan; barpan* has been condemned". And he quoted the Mahabharata, Anusasan *parva* where the selling of boys and girls is condemned; the people who sell boys and girls are condemned to the seventh *naraka*. Our scripture is against it. I can quote our *rishis*, Kathyayana, Narada and even Manu; they are all against it. *Jauthaka* is not *Kanya sulka; jauthaka* is derived from the word *jautha* which means union. When two souls are united, whatever present is given blesses both the bride and the bridegrooms. I am not against *jauthaka*. I come from a State where *jauthaka* is given. What kind of *jauthaka*, do you know? A girl may be given just a piece of cloth, but the finest of finest sentiments will be poured forth through the presentation of that cloth. It may cost only five rupees, but if you look at it from its sentimental value it will be worth crores of rupees. Is it barpan, or is it jauthaka. It is *jauthaka*. The girl's mother will send the present to her future son-in-law with all her blessings. That is *jauthaka*. If a friend gives any painting or anything, or any woven thing, to the girl, it is not *barpan*. So I am condemning *barpan*. Our civilisation is against it.

When I take my stand before this august House my mind goes back to those ancient chapters of Indian history when a girl was considered to be equal to a hundred sons:

Satha putra sama kanyaha.

Those were days when we produced characters like Sita, Draupati and Bharati.

I do not know why Sita, Draupati and Bharati are called *maha satis*. Sita was devoted to one husband; Draupati was devoted to five, and in her sub-conscious state she was devoted to a sixth also. It became a sin for her. She was debarred to go to heaven. That which was a virtue for Arjuna became a vice for Draupati in man-made society. Anyhow, Draupati also is a *maha sati*.

Sita also is a *maha sati*. I thought, is Sita a *maha sati* because she accompanied Rama to the forest? I was not convinced. Urmila would have been a greater *maha sati*, because she sacrified more. But the moment I read the translation of Valmiki's Ramayana, I understood it. When for the second time she was asked to appear before the *agni pariksha*, she refused like a dignified woman and told Rama, "If you suspect me, if you want to satisfy your subjects and want to have a second *agni pariksha* for me, I refuse". She refused and said, "Even if you take it for granted that I have been molested by Ravana, it does not matter. If I have been molested, my soul has not been molested; my body is a thing over which I have no control over which you have no control, over which none has a control; but my sentiments and my devotion to you remain unchanged. I therefore refuse to appear before a second *agni pariksha*". Tremendous character; tremendous personality. I call her *maha sati* for that reply. She had that soul force. She preferred to embrace death than to bow her head down before the injustice.

About Draupadi I do not know why people call her a *maha sati*. Sir, I have my own interpretation I call her

Mahasati, when she could excuse her enemy Aswathama even. When Bhima wanted to take revenge on Aswathama, she said, "I don't want the mothor of another child to be in agony; the agony which I am suffering as a mother, I do not want even my enemy's mother to suffer". I like Draupati for that. As regards Gandhari, when her children went to her for blessings, she said, "Children I went on praying for a son and I got a hundred sons. But I won't bless you because your stand is not on truth". My mind goes back to these days today.

Then came an age of *Brahma Vadinis*. A woman like Bharati had to preside over that great conference where her husband Mandanamisra and Sankaracharya conducted a debate on *Advaitavad* and Sanathan Dharma. The pandits did not know whom to request to preside over the conference. It was Bharati Devi who was asked to preside over the conference. And what verdict did she give? After the debate she said, "My husband is defeated". But when she came down from the high pedestal she said, "The moment my husband was defeated, from the judge's chair I have given my judgment. But when I have come down I share the joys and sorrows of my husband as a wife". That is the Indian wife. That is our tradition.

Then there came a degradation to our life. I asked that Miri girl another question: "Why don't you take to opium like the boys?" She said, "If we also take opium, who will look after our children?" Then came another answer to my question: "The mother embraces the home for the sake of the children". When this Miri girl was answering to my question, my mind was going through the pages of the world's history, when there was the matriarchal system, not the patriarchal system. Why? The women themselves surrendered so miserably before men because of the children. For the sake of the children, they sacrificed everything. But, after surrendering every right, they became like ornaments. They lost their self-confidence. They became a decorative piece of thing of the household. Then, degradation came to her life. Then, people started saying, beware of Kamini and Kanchan. It is Swami Vivekananda who said, it is not kamini and kanchan. Thinkers wanted to club kamini and kanchan, wine, women and wealth together because degradation came to her life. Swami Vivekananda protested. Because he was the embodiment of purity, he could protest. He said, it is not kamini and kanchan; because you are weak, you put the blame on women; it is kam and kanchan. A change came. Then came Gandhiji and today Vinobhaji who has recognised the women's rightful place. So, I humbly differ from those great parliamentarians who want to attack the very principle of the Bill and who want to throw out the Bill. Though I do not suffer from this in my State, I want that the Bill must get through because it is a challenge to our civilisation, to our tradition and culture.

Mr. Speaker: The Hon. Member's time is up.

Shrimati Pushpalata Das: Have I exceeded my time, Sir? I have a lot to say. But, I do not want to steal others' time. Only one appeal I want to make to my friends, to the conservative section in the House. I do not know who they are. Whoever they may be, my appeal to them is—not to their head, but to their heart, because the head sometimes disunites, but the heart unites.

Pandit Thakur Das Bhargava wanted dowry. I am going to give a dowry which cannot be seen, but which can only be felt, a dowry which a girl gets from her parents at the time of her marriage. When she leaves her father's house, her father says, my child, leave your tears behind to with a wealth of smile to your new home. She goes to her mother. The mother gives her this dowry. She says my child, my pestige is in your hands; be conscious of it. Be

[Shrimati Pushpalata Das]

a mother to your husband when he needs motherly care, be a sister to your husband when he needs sisterly care, be a daughter to him when he needs daugterly care, be a wife to him when he needs your company. With these blessings she goes. Like living poetry she goes to her husband's house. Will he give any other presents which are invisible? These are the finest of fine sentiments. They are the best dowry. I appeal to my friends; I appeal to their manliness, to their chivalry, above all to the soft corner of their hearts which revolts against all injustice.

Let me conclude my speech with a quotation from Tagore. As a woman, I have a right to say what a woman feels. In Chitrangadha, Tagore put it so beautifully:

पूजा करि राखिवे मायाय
सेचो आमि नई.
अव हेला कोरि पुसिया
राखिवे पिछे,
सोयो आमि नई,
जदि अमं हाव
कोठिन व्रतेर तवो सहाय
होइते, जोदि सुखे, दुखे: मोरे
करो सहचरी
तवो जीवन पकेर,
तवेई पाइवे मोर परिचय,
आमी नारी ।

The meaning is; If you want to know me the eternal woman, I do not want to be worshipped like an idol. Neither I want to be neglected. I want to share the joy and sorrow of your life. Allow me. Then you will know who I am that eternal woman.

आचार्य कृपालानी (सीतामढ़ी): अध्यक्ष महोदय, अगर इस बिल के खिलाफ कोई भी बोलेगा.....

Some Hon. Members: English, English.

Acharya Kripalani: Mr. Speaker, Sir, if anybody speaks against this Bill, he will be considered reactionary. Why? Because, as we are governed at home by our women, so in Parliament we are governed by the women present here. They make our public opinion and they are sure to say that anybody who opposes this Bill is opposed to the abolition of the dowry system. They would not think that the person is opposed to a legislation which cannot be carried into effect. They will not think that in India there are so many castes and tribes that have different customs. They think that all the people in India belong to a narrow educated class of persons. There is, for instance, Kerala. What is the question of dowry? The bridgegroom becomes the gharjamai. The whole property belongs to him. He has to shift to the house of the bride.

Shri Tyagi (Dehra Dun): Terrible.

Acharya Kripalani: There are other tribes where it is not the female's parents who have to pay, but the male has to pay in order to get the bride. How are we going, in this social set up, to think only of a small educated community, and that also in the lower middle class? Because, in the higher middle class, among the rich people, there is no contract at all. It is known that they will pay. There is no contract because it is known that they will not refuse to give. It is a very small community that is affected by the evil of dowry.

I know it is a very bad system to give dowry or to take dowry, though personally, if I had got a few thousands of rupees at my marriage, I would have been glad: not very unhappy.

Mr. Speaker: Then, this Bill will be given retrospective effect.

Acharya Kripalani: Even then I cannot come under its clutches I had a civil marriage and no criminal marriage.

I have asked my friends here, some of them who did not take dowry, whether they would not have been glad if they had got a few thousands. Everybody says that he would have been glad because it is un-earned income and one has not to labour for it.

Shri Tyagi: Income-tax free.

Acharya Kripalani: And Income-tax free. How are we going to enforce this law? We are going to make it more and more rigorous so that it can be enforced. Who is going to complain? The bride will complain? The bridegroom will complain? That would destroy the marriage.

An Hon. Member: Social workers.

Acharya Kripalani: The social workers will complain. Will the bride and bridegroom give evidence? If they are to live together, they cannot do it. Supposing it is proved that dowry was demanded and was given, what happens? You simply destroy the marriage. If the judgment is in favour of the girl and the girl's parents had given dowry, what will be her condition? Our Prime Minister told us that there are hundreds of suicide cases now. I say, there will be more hundreds of suicide cases if really the courts begin to act and if cases are taken to the court. These are very delicate matters in which we have got to be careful. But, I know it is useless because, the women, as a whole, in this House, have made up their mind that they must have this legislation. Just like children, they want to have a toy and they must have it, and if anybody speaks against it, he is a reactionary. I remember that there was a tussle in the Congress on the question of prohibition. A proposal was made to Gandhiji that smoking also should be proscribed for Congressmen. I think it was my hon. friend Shri Tyagi who made the proposal. And what did Gandhiji say? He said: यह ऐसी बदियात आदित है कि इस को कोई बन्द नहीं कर सकता।

Shri T. S. A. Chettiar (Madras): What does it mean?

Acharya Kripalani: It means that it is such a disgusting habit and it is so much prevalent that nobody can check it, and no amount of resolutions of the Congress or legislation can check it.

So, I submit that this law will be as much a dead letter as the Sharda Act. No doubt, there has been some improvements, but that improvements would have taken place on account of the economic and social forces already working; so, it was not on account of the law. I read in the papers the other day that there were betrothals and marriages even before the children were born. Where were the social workers then? This happened in Rajasthan? What were the social workers there doing? What were the women doing then? They were doing nothing. This happened in Rajasthan; and this happened in many places. Children are given in mariages, and social workers do not appear on the scene.

Then, again, to suppose that women do not want dowry is a falsehood. A young woman today wants that there should be a radio in her house, that there should be a refrigerator in her house, and if she can have it, she would like to have also a motor car. She wants to establish her house. Therefore, the young women are happy when they get dowry. They are happy when they get ornaments. You do not know how women collect the women of the neighbourhood and show them, saying that 'These are the things that we have got', and they rival each other in this, and the more they have, the prouder they are.

[Acharya Kripalani]

Then, I may tell you that young men themselves want dowry, because some of them want to go to colleges, some of them want to go to Oxford or to Cambridge and so on; they cannot afford it themselves, but if the other house also contributes something, and both the houses combine together, then they can do so, and this is done because it is supposed rightly that it will be for the future good of the girl herself.

I submit that there would be no objection to a law being made, provided it can be carried into effect. This law cannot be carried into effect. It may give opportunities to certain evil-minded persons to put the parties in a troublesome position, but, as a law to be fairly administered, it will be asbolutely useless.

Therefore, I would advise my sisters to organise themselves, to carry on propaganda, to collect women and they should say that they would go on strike and they would not marry unless they are taken for their own qualities, and not because of money. Instead of doing that, instead of organising themselves, they bring pressures of all sorts before us, and they convince the Prime Minister; and when the Prime Minister says that the thing is right, it is, of course, right. There is no question about it, because, for every Congressmen, his word is law. It was written in the papers, by Diwan Chaman Lall....

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): Not for ex-Congressmen.

Acharya Kripalani: Yes, for us also, but in a limited form. There is no absoluteness about it.

Therefore, I very humbly suggest that women should organise themselves and do propaganda, although it is too late in the day, because they are all determined; at home, we are governed by our women; here also, we are governed by women. I have not seen in the whole world people who are more under the thumb of their women than in India. Nowhere else have I seen such people; and whenver they desire....

Mr. Speaker: Then hon. Member is an exception?

Acharya Kripalani: The hon. Member is not an exception.. Otherwise, how could my wife have gone on, without consulting me, and done things which I do not like?

If I am not under the thumb, then, there is a negative aspect. I cannot help it. It does not give me pleasure, but I cannot help it. She is the master of herself and to a little extent, master of myself also. But I cannot control her. Who can control? When some peple ask me, 'Where is your wife?'. I say that in the modern world, he must be a very fortunate husband who knows where his wife is.

Mr. Speaker: All these are not relevant for the Dowry Prohibition Bill.

Acharya Kripalani: Today, it is the wife who knows where the husband goes.

Shri Tyagi: On a point of order. She is a respectable Minister in a State, and I do not think any Member has got a right to criticise here in this House in this manner.

Acharya Kripalani: I am saying that she is such a powerful women that I cannot control her, and my hon. friend says that I am talking ill of her. This is how my hon. friends interpret and misinterpret.

Mr. Speaker: Shall I keep all this portion out of record? Shall I remove all this portion from the record??

Shrimati Parvathi Krishnan (Coimbatore): On a point of order. Is it right for the hon. Member to make remarks about somebody who is not here to answer for herself?

Acharya Kripalani: Sir, you may tell me what the hon. Member said, because I did not hear.

Mr. Speaker: She wants to know whether it is right to refer to any person here inside this House, who is not here to reply to what has been said.

Acharya Kripalani: I quite understand that I cannot criticise a person who is not in the House, but I can certainly praise a person who is not here.

Mr. Speaker: Very well

Acharya Kripalani: Is it your ruling that we cannot praise even?

Mr. Speaker: No, no.

Shri A. K. Sen: Acharya Kripalani knows that we are all here to support her.

Acharya Kripalani: Well, that is very nice.

I was saying that the better thing for our women will be to organise themselves....

Dr. Sushila Nayar (Jhansi): That will also be done.

Acharya Kripalani: .....and also initiate some kind of satyagraha. They should say that 'we do not want to marry, if there is going to be dowry', though it is a very dangerous thing; I can tell you that many parents pay this dowry because they do not want to have an old maid in their houses. And it will be really very good for some women that their parents gave dowry and disposed them off, than oblige them to be old maids because that would be very disturbing in the house as also outside.

So, the best thing that I would again tell my sisters is that they should organise themselves and have satyagraha; and will need wives always, and if for six months they have this satyagraha....

Shrimati T. Nallamuthu Ramamurti: May I say that it is because women have organised themselves and have agitated that this Bill is before the House now?

Acharya Kripalani: Quite right; the Bill is before the House. But I am telling them a more radical remedy, a more effective remedy. I can assure them that as the Sarda Act is violated, so this measure also will be violated and they will not be able to do anything. Therefore, I suggest to them a better remedy. When there are no other remedies, Gandhiji said, satyagraha is a sure weapon, and it is sure to succeed. Let them try to organise themselves for six months and boycott all men who would want dowry, and the men will all be set right, and women will see that the men will be tired, and they will come on their knees to the women and say 'We do not want dowry, but give yourselves to us, so that at least we might make a home'.

An Hon. Member: There will be civil war then.

Acharya Kripalani: There will not be any civil war. Satyagraha does not mean civil war. Satyagraha means non-violence where nobody wins, nobody loses. That is the meaning of satyagraha. The respectability of both parties is maintaind.

Another thing I would say is that the young ladies and the young men must see that their life is simplified and that they do not want all these modern gadgets to set up a household. If that is done, there will be no legislation necessary. Now that the legislation is there, now that it is going to be carried through, I would humbly suggest that it may be made as innocuous as possible, that presents should be exempted from being considered as dowry and that there should be no such thing as penalisation of anybody who demands and has taken no steps and done no overt act in order to get dowry. I submit this is a good prin-

[Acharya Kripalani]

ciple of jurisprudence that a man should not be considered to have committed any crime unless he has taken certain steps, actual steps; in order to commit that crime. Mere intention, mere asking; cannot be made into a crime. I think it is against all jurisprudence. I do not know how the Law Minister has consented to this, that the mere asking; mere demand; be made criminal.

This is all I have to say. Of course, I know this law will be pass- and it will passed even as my sisters want it to be passed.

Shrimati Savitry Devi Nigam (Uttar Pradesh): I stand here to extend my fullest support to this measure which has been brought forward to eliminate the social evil of dowry. I have not the slightest doubt in my mind that this measure is going to get the fullest support of all thinking people, to whatever party they may belong; in this august House; and also the support of those millions of people who have been impatiently waiting for the day when this Bill may be introduced in the House. I also endorse the view expressed by a number of hon. Members that this evil of dowry has been the greatest slur on our great civilisation.

When I turned to the mushroom of amendments, I was quite surprised; because a number of them have been motivated by a sort of love, devotional love and importance; some quarters have attached to the customs. I am afraid that though these customs do play a great part in our lives, the persons who attach such a great importance to these customs have forgotten that some of these customs are very very inhuman. I do not think they are justified at all in doing this. We must take lessons from our forefathers. If our forefathers had attached the same importance to these customs, I do not think any of the Members sitting in this august House would have been able to marry at all. There was a time when people had to invade the house of the bride and kill the parents of the bride to get the bride and marry her. When civilisation dawned upon us, several other customs were adopted and considered to be very sacred.

Take the custom of *swayamvara*. How many of us are able to break the bow which was broken by Ramachandraji? If our forefathers had attached that much importance and thought that those customs were so sacred, then I think we would not have been seeing so many married people in our country. Every custom has got a history behind it.

As far as the custom of dowry, and the sacred things which have been said about it; are concerned; I think if we look back to the days when this custom was established, we shall feel very much ashamed of ourselves. This custom of dowry was established in the days when our country was invaded by various invadors. Because people did not want their girls to be taken away by the invaders, they just stopped to the remedy of child marriage. When child marriages were recognised by society, the parents thought it fit to give some money and gifts also along with the bride because the in-laws had to bring up the child. But now we are living in the modern age. I would appeal to the modern 'rishis' who are sitting here not to attach any importance to this custom, nor to attach any importance to those sacred rituals which are connected with dowry which make us feel that giving some gifts at the time of marriage is sacred or very important. We must forget these and give a new orientation and bring about a new change in the custom of marriage also.

The House is quite aware that without this Bill all the revolutionary social legislation that we have undertaken will become quite ineffective and incomplete. The aim of all the social legislation we have passed is

to establish equality in society, to provide equal social justice to both men and women. I cannot imagine how any such equality can be brought about or social justice provided unless we pass this Dowry Prohibition Bill here.

Some Members have expressed their anxiety and asked why the women Members are so keen on this Bill. I would like to submit humbly that that is because women are the greatest sufferers. Some Members have also said that most of the women members in the family are responsible for making demands. I also agree with it. But still here are the women Members who have realised the mistake of their sisters and brothers, both; and are appealing to you that this Bill should be passed without any hesitation and delay.

I know that all the parties and all the Members belonging to parties, are pledged in a way to socialism. But I would like to submit humbly that nothing has been so much against socialism as this evil of dowry. A person has to save every penny all along his life for giving this dowry, as a punishment for having given birth to a daughter. All along his life, he has to curtail all his genuine expenses; so that he may be able to save money to give away his daughter. This is his only mission. Nothing has been so much responsible for degrading the status of women in our society as this dowry.

12 hrs.

The day a daughter is born, the cloud of unhappiness starts hovering over the whole family. I have seen with my own eyes that as soon as the mother, who loves the child so much; hears that it is a female child, she starts crying. Though for the mother the child is the greatest gift, because of evil of dowry; that gift is converted into a great calamity for the family. So, if we are really pledged to establish a sarvodaya samaj or a socialist society, we must not hesitate even for a second; and we must make this measure as effective as possible.

So many Members have made reference to *sthree dan*, and have advocated that Explanation I on page 2 should be retained. This *sthree dan* is a very intriguing expression. All the hon. Members sitting here have got sisters and daughters. I would like to know how many of them have really enjoyed that *sthree dan* given at the time of marriage. I shall explain why we are very keen on deleting this Explanation. This *sthree dan* was necessary at a time when women had no right to property. When we have been given equal right to property, why is this required. We must see everything in its proper perspective. We must see the things required now, things which are necessary now; and the things which have become useless and are blocking our progress. A strange feeling is created in the minds of parents is to why they should give an equal share in their property to the daughter when they have to give a dowry for getting her husband. So, it is very intriguing; and I would appeal to hon. Members not to be misled by this expression *sthree dan*. If the Law Minister accepts our humble request and deletes this Explanation, I think women will surely get all the gifts which are given to them in a genuine way and not as consideration for marriage. The husband and wife, both, always enjoy every gift which is given at the time of marriage; besides that, when the wife inherits property from her parents, why should this question of *sthree dan* come here, to make this Bill entirely ineffective?

I am all for the retention of Clause 4, but I am sorry that a new proviso has ben added to it. I would remain the hon. House that at the time the marriage and Divorce Bill was moved in both the Houses, so many Members expresed great anxiety that as

[Shrimati Savitry Devi Nigam]

soon as the Bill was passed, all the women of India would run to the courts and divorce their husbands. Such suspicions are not based on facts. In the last four years we have seen that only 700 divorces have taken place.

Mr. Speaker: Order, order. There is too much noise in the House. The hon. Member's voice is not heard by anybody, including myself.

Shrimati Savitry Devi Nigam: Only one minute, Sir.

Mr. Speaker: I want to assist her, to see that her voice is heard by all. Unfortunately, the acoustics in this hall are not excellent. Even a whisper assumes a magnitude out of all proportion, and, sitting so close, I am not able to hear her voice. Hon. Members will kindly keep silent till the evening, until we disperse.

Shrimati Savitry Devi Nigam: I was saying that if the proviso to clause 4 was retained, the Bill would not be as effective as we want to make it. Sometimes, we entertain unnecessary fears, doubts and suspicions. We must trust our people. They are not so bad that if this proviso is deleted, they will immediately run to the court and entangle everybody unnecessarily in litigation. The moment a person enters the court to entangle anybody else in litigation, he himself is entangled and he has to run to the court every day and engage so many lawyers. That is why I say that even at this late hour, only if the hon. Law Minister accepts our request and deletes this proviso to clause 4, this Bill will be as effective as we want to make it.

Shrimati Parvathi Krishnan: Mr. Speaker, Sir, the measure that is before us has to be viewed as a whole, and we should realise that it is one more measure to be put on the statute-book to go towards eradicating the social inequalities that prevail in our country today.

I personally have certainly no illusions left that just by passing a measure like this, we will be able to eradicate the evil system of dowry, particularly after seeing the manner in which the debate has progressed both in the Rajya Sabha and the Lok Sabha and again here in this joint session. We are left in the position of doubting whether it may not be leading Members of Parliament themselves who may be in the way of implementing a measure like this.

For instance, what does hon. Member, Shri Tyagi, say? We know that he is a master of the art of insinuation. He insinuated that many Members of Parliament were today very vehement and vocal in supporting this measure, because they themselves had already benefited from dowry, and therefore they had nothing to look forward to in the future. That was a most unfortunate insinuation, but certainly it is this type of argument that we would hear outside also, and I for one was happy that we could hear it on the floor of the House, so that we could stand forewarned about the type of talk we would hear outside when we go out with this measure to fight for furthering social equality.

Then Shri P. N. Sapru was arguing in a most strange way, that if this Bill was passed, the institution of marriage itself would disappear altogether. It is strange logic.

Shri P. N. Sapru (Uttar Pradesh): I never said anything of that kind.

Shrimati Parvathi Krishnan: I am glad. In that case, I misunderstood what he said. In that case I would be happy if I can take it that you support this measure.

Shri P. N. Sapru: I did not say so; I have not lost my commonsense. (*Interruptions.*)

Shrimati Parvathi Krishnan: I would take that you support this measure

and will certainly help us to go forward. There was Pandit Thakur Das Bhargava whose usual hymn on measures like this was that this would hit against the ancient social customs. I for one regard only the institution of marriage as an ancient custom but I could not certainly accept all these various social evils which have grown through the centuries as ancient social customs. By so doing I feel that we will be insulting our whole cultural heritage. Certain evils have grown for various historical reasons and I cannot go into them now for lack of time. But if we want to preserve those customs in our country which have sanctity behind them, which are customs to be proud of, then we should be able to find out what is wrong and we should see that they are removed. Whatever militates against progress of the society and whatever militates against our fulfilling all that we have placed before us for eradicating social inequalities should be removed.

Now that you have, Sir, directed that there would not be any separate discussion on the clauses themselves, I would like to take up the amendments that are there before us which have come up as a dispute between the two Houses. Firstly, with regard to the explanation, I have to point this out. Why is it that we oppose this explanation being included in the Bill? Why is it that we feel that this explanation would create exactly that loophole which would enable people to carry on in some way or the other the very system of dowry against which this Bill is supposed to be brought before the House? Some hon. Members have felt that if this explanation was not there in the Bill, then the many customary presents that are normally given at the time of marriage either by the family of the bridegroom to the bride or *vice versa* would not also be permitted. This certainly is a very strange argument to my mind because there are certain customary gifts that have to be made which are part of the marriage ceremony. In fact when this measure was being discussed in the Lok Sabha many of us suggested that if such fears were to be present in the minds of certain hon. Members and in the minds of certain sections of the people, then certainly we can have an explanation which was more explicit and say that it is part of the marriage ceremony. For instance, the mangal sutra or bangles or ring could be indicated but beyond that those that are not part of the marriage ceremony could not come under the explanation. Otherwise, this explanation would create a loophole. We say this because we have seen how the system of dowry operates. Many times we are told that when dowry is demanded, part of the demand is that bride should wear a certain amount of jewellery at the time of the marriage ceremony. Now, strictly speaking, there are some who would say that that is not dowry. We have got a number of cases where if the bride, at the time of marriage when she is brought, to the pandal, is wearing a specified type of ear rings and a specified value of jewellery and a specified number of ornaments of gold or a particular type of saree, all these are made the bones of contention. It has become the process of bargaining. So, when the explanation is put that way, it could be brought in and used to harass the bride's family at the time of marriage. If that is not there, the parents of the bride will certainly give to their daughter whatever they wish to give her or whatever they feel that their daughter should have as a bride, on her wedding day. There would be no possibility of any coercion or compulsion. Most probably the hon. Law Minister will say that this explanation would actually safeguard against that but we have to take this issue in a very practical manner and we know how this particular thing is used many times to harass the families of the bride. That is why we have proposed that there should be an amendment 'directly or indirectly'. That makes it far more explicit and it will also safeguard against any

[Shrimati Parvathi Krishnan]

loopholes being there. This explanation, we feel, leaves room for people to harass because when it is there, there will always be the continuation of this form of dowry and they will say that the bride should have this, that or the other.

There is also another practice as far as dowry is concerned. That is, that the bride, when she comes to the house of her newly wed husband is supposed to bring with her a large number of presents that are handed to different members of the bridegroom's family—that is, the bridegroom's elder brother's wife, mother-in-law, cousin's wife, aunts and so on. There are also many cases where when parents give presents to their daughters as part of any dowry and when she reaches the house of her newly-wed husband, these are suddenly whisked away and presented to various members of the husband's family. There also this explanation would certainly give rise to more harassment. We had a very moving appeal in the Lok Sabha from Pandit Thakur Das Bhargava saying: why do you want to stop me giving my daughter things I want to give her out of my love and affection. We do not want to stop him donig that. We welcome at least one Member of Parliament speaking with the same voice of such people as Shri Tyagi, willing to give the daughter presents. We certainly welcome that sentiment. But why is it that he should specify that in this measure it should be put specifically that he should give his daughter these things only on her wedding day. Does it mean that if his daughter does not get married, he would not think of giving that daughter anything? Does it mean that those who are already married are going out of his consciousness? Even if this explanation was not there, there is nothing in this measure which would stop such affectionate fathers as Shri Tyagi, Bhargava and Sapru from giving their daughters all that they wish to give them at any time before or after the marriage. I see the hon. Law Minister himself smiling very happily at this because I know that he is himself worried about dowry as far as his daughters are concerned. If he were to make presents to his daughters, we would be the last people to come in the way of his giving off presents out of natural affection that he would have for his daughters.

Now, to come to the clause about penalising demand, in the Lok Sabha we demanded that this clause should be there because it is a very necessary clause. Demand today is one of the ways in which families are being harassed and many times we find that the harassment starts at this stage and it is not after the marriage has actually taken place and the dowry has actually changed hands. The argument that the Law Minister advanced was that if this clause remained in the Bill it would lead to a great measure of harassment. This argument seems to have weighed with the Members of the Rajya Sabha when they voted against this clause being retained in the Bill. It is strange indeed that after putting before us this argument of harassment, his colleague Shri Hajarnavis brings before us an amendment to this clause which, to my mind, opens up the floodgates of harassment much wider than would have been the case if the demand clause stands as it is in the Bill, originally. It says here:

> "Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf."

We have heard the clarification about the special officer. If the special officer is a very junior officer somewhere in the districts somewhere in the rural areas and if there is any influential person in that area who wishes to harass those fami-

lies or anyone particular family or he has some grudge against a particular family, he can certainly take recourse to this clause. Because of their influential position, because of many other reasons, they would be able to get these officers to move on their behalf, and thus, this proviso would become the instrument of harassment rather than a safeguard against harassment: whereas, if the clause remains as it is, the room for harassment will not be so wide because they would not be going to court just in a light-hearted fashion and it cannot be used just in order to harass one particular family or another, because of one's social position or because of the influence one may have. On the other hand, if this proviso is there, there would be much more harassment and if this whole clause was not there, the possibility of evading this Bill would also be much wider. Therefore, we feel that this demand clause should remain as it is and this proviso should be rejected.

I would appeal to hon. Members of the two Houses to reject this proviso which to my mind would lead to much greater harassment than would exist if the proviso was not there. In all such social reforms or measures, we have found one thing: it is really surprising that the hon. Minister himself should have advanced those very arguments which have been advanced by reactionary sections, whenever such a social reform is brought forward, that it will lead to harassment and that it will lead to misunderstanding between families and so on. We know that this is the stock argument. For instance, when the Divorce Bill and the Marriage Bill were being discussed in Parliament, at every stage, when every clause was being discussed, one heard the argument or the plea of harassment: either the wife's people would harass the husband's people or the husband's people would harass the wife's people or the wife would harass the husband and so on! But those Bills had been passed: they are now Acts of Parliament. The Law Minister himself is not able to convince us that those measures have in anyway led to harassment of any section of the people on a wide scale. So, this stock argument has really no strength at all and has really no foundation. On the other hand, if this proviso was there, it would be an invitation particularly in the rural areas where the lower middle classes have very little protection against the more privileged section; it will really open up the possibilities of harassment on a very flimsy pretext. Therefore, more than being a protection, this proviso would be really a danger.

I would appeal to hon. Members to realise that this demand clause should be retained as it is, without the new amending proviso that has been brought forward by the Deputy Minister of Law.

Mr. Speaker: The hon. Member's time is up.

Shrimati Parvathi Krishnan: In conclusion, I hope that this Bill will be recast with the amendments that have been proposed by a large number of us, because I feel that by doing so, the first and the historic joint session of the two Houses of Parliament will open up a new chapter in the lives of our people in the fight for the eradication of social evils. It is an untiring crusade that we will have to carry on with zeal and with fervour if all such evils are to be eradicated, and this measures will be a powerful weapon in ensuring the success of that crusade.

Shrimati T. Nallamuthu Ramamurti (Madras): Mr. Speaker, Sir, I am deeply thankful to you for having permitted me this opportunity to express a few sentiments on this Bill, a very important social legislation to eradicate a social evil and to put an end to the social injustice prevalent from medieval times—to the present day.

Hon. Members of both Houses, sitting here jointly, have said that this is a great occasion, a historic occasion, a unique occasion. It is undoubtedly true Sir that this is an august ses-

[Shrimati T. Nallamuthu Ramamurti.]

sion; and we are making history. We are passing from one era to another in bringing forward this legislation which, in my opinion, has come as a corollary, automatically and logically, to the various pieces of legislation which have been enacted by this Parliament, in both Houses, for removing disabilities of women in this country. After the Hindu Code Bill, the property rights to women, the law relating to maintenance and adoption, and many other similar pieces of legislation that have been promoted by the wisdom of both Houses of Parliament, we can only see in this measure a natural sequence that should come automatically, namely, the prohibition of dowry.

About the prohibition of dowry, some have pointed out that it is an impracticable measure and have asked, how are you going to prohibit this giving or taking dowry; whether you pass this Bill and enact it into a statute or not, dowries will be given. But I may say that it is a common feature: whenever we wanted to bring in any kind of legislation for social reform, especially relating to womenkind, was there any single occasion where there was not this kind of pessimistic view taken as regards the practicability of such reforms? Every reform, even in the matter of education of girls, their study in colleges, the starting of separate institutions of women's colleges, etc., was hotly opposed at the time when such measures were mooted. All those pioneers of social reform, not only women but men as well, have seen such opposition, and therefore I am not surprised that there is opposition to this measure. In some ways, opposition is good because it acts as a corrective, and here we are, after this Bill had passed through the Rajya Sabha and the Lok Sabha, sitting in a joint session. From what I have heard so far, I have seen more agreement on certain clauses where there was difference, and I quite believe,—and I have every confidence and faith,—and hope that at the end of this session, the wisdom of both Houses, and guided by our leader Shri Jawaharlal Nehru, this measure would bring about the liberation of women. Our leader has said the other day in his speech that this measure would bring about the liberation of women. He has also rightly pointed out that legislation by itself cannot normally solve these social problems but that legislation is essential because it may give them a push and be an educative factor as well. In that spirit I hope that this Bill would find acceptance by both the Houses and I appeal to all hon. Members here to come to an agreement and see that this long-awaited measure is passed in this august body today.

With regard to the need for this Bill, or rather, the various important provisions of this Bill, I would appeal to hon. Members to seek the assitance of social welfare organisations who are working amongst the women of this vast country. You will find distressing tales of extreme torture suffered by young girls who have been given in marriage and who have been persecuted by the parties concerned for dowry of one kind or another, and the victims of dowry who, to the door of persecution come seeking help to our associations, and to the Avvai Home, they come streaming in to this day, with various horrid stories of torture, worse than the inquisition torture of the mediaeval ages. They have suffered torture of a kind not open and straightforward, but subtle with all the cruelty of a cultured way of torturing and nerve-racking the victim throughout their life, day in and day out, not only at the time of marriage, but even after the marriage. If you only know the number of suicides committed and of victims who have gone through this experience, you would all say with one voice that we must pass this Bill and abolish the dowry system, at once I would not like to go into further details with regard to the lives of these girls.

Our hon. friend, Acharya Kripalani, was no doubt paying a tribute to the women. He said, "We are ruled by women at home. I am afraid we are ruled by women Members here". It is no doubt a matter of pride and of congratulation to our women. But if you search your hearts, you will all know who are the dominating factors in the household. As a young girl, I looked upon my father as Godhead. We were not allowed to make noise when he entered. My brother was looked upon like God. So, who is the dominant factor in the family? The father or the mother? The mother certainly might have exerted subtle influence, but Sir, you will agree that there should not be any bifurcation of interests in a family, which has the tradition of Ardha Nareeswara from ancient times. The man and the woman are to run the house together. The peace and harmony of the home is not to be maintained only by the lady of the house, but also by the man of the house—as they are bound together by the sacred vow of eternal partnership in the pilgrimage of life and in the creation of a happy home.

Shri Acharya Kripalani also said he did not know how far this Bill is going to be effective. He as well as Shri Tyagi pointed out that there are so many customs prevailing among various tribes, where even the man has to give money to the girl. Of course, there are customs. India is a vast sub-continent. When, for example, Shri Jaipal Singh quoted statistics of 1951 census and said that there were so many thousands of child marriages in spite of Sardha Act widows and so on, he seemed to forget the vast number of millions of people and young girls in this country. Even if there are so many thousands of child marriages, I think it is a great tribute to our country and our legislators that they are proportionately as small as that number and not more. Therefore, as time goes on, all this will vanish. No law is perfect in its operation in its initial stage. Time has to be allowed to test its efficacy.

I do not say that the customary practices among the tribes that are allowing dowry to continue are going to be touched directly and immediately, the moment this legislation is passed. Not at all. It will take a little time. A social legislation is bound to take time. Therefore, I would plead with all those who have come with pessimistic views about the practicability of this legislation kindly to look to the existing conditions and see that they co-operate when this Bill is put to vote.

I would like to give one quotation here from the Mahabharata which describes the qualities of a girl and I want to know what justification there is for taking dowry. It says:

"A wife is half the man,
his truest friend,
A loving wife is a
perpetual spring,
Of virtue, pleasure; wealth;
a faithful wife,
Is his best aid in seeking
Heavenly Bliss;
A sweetly-speaking wife is a
companion,
In solitude; a father in advice;
A mother in all seasons of
distress,
A rest in passing through
life's wilderness."

Can any amount of gold or wealth become equivalent to such qualities of a girl in the portals of marriage?

Some have said and I also believe that legislation is not the end and aim of everything, but social consciousness has to be aroused. Education has to go along with everything. But that is true for all legislation and not only for this. Side by side with legislation, public consciousness has to be aroused. Here comes, in my opinion, the value field workers and the various social service organisation. Acharya Kripalani said, organise women, Do you mean to say that

[Shrimati T. Nallamuthu Ramamurti]

without organising women, this Bill has been possible? Even as we were discussing the Bill, there were deputations after deputations outside Parliament of women's organisations, demanding the enforcement of this Bill. Therefore, social service organiations are quite alive and are working very hard and enthusiastically. They will be very happy when this Bill is passed.

I come to the various clauses. I certainly say that in the definition clause 2 apart from the words that are given there, the words "directly or indirectly are very essential. It might be implicit, but still there is no harm in making it much more clear and explicit. Therefore, it is essential. And in fact, I would suggest that for the proper implementation of this Bill, one should enlist the active participation and co-operation of Veteran Social Workers and association like A.I.W.C. and other.

With regard to the explanation, right from the beginning I have been in favour of its deletion, because it is likely to cause some confusion. You cannot differentiate at the time of marriage between gifts given in consideration for the marriage and those given not in consideration for the marriage. Even if this explanation is deleted, there is no harm. Which father or mother can be prevented from parting with something out of affection to the daughter or son? You cannot prevent it. Therefore, this projection of distinction between gifts, presents and dowry in this clause will lead to confusion. I would like that clause to be deleted. That is my opinion and I think many of the speakers have expressed the same view.

Coming to clause 4, it says:

> "If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry he shall be punishable with imprisonment etc.

I feel that the imposition of penalty is right and all avenues should be sought in order to see that the demanding of dowry should be abolished. It is not a question of actual taking of dowry that is an offence but it is a question of principle. Shri Sapru posed the question this morning to me, "If a girl is educated, is beautiful and has other qualities, it is all right she will be sought in marriage. But what happens to a girl if she is ugly? Naturally nobody will marry her, unless something else of wealthy property by way of help is given." I ask, Sir, do you mean to say that ugly girls have not married at all in our country? Things are not what they seem surely. You go by the appearance—colour. For instance, advertisements appear in newspapers saying, "Wanted a bride, fair-complexioned, etc". You must put a taboo on that; you must fine newspapers which put up such advertisements as this is beneath one's dignity to promote commercial advertisements for marriage. Also, the go-betweens must be eradicated. They are the scourages in society and they must be eradicated.

Now, I will give you an instance. A man of principle who did not believe in taking dowry from the bride's party was getting his brother married. He refused to accept any kind of dowry being brought by the girl. But quietly, when the "nischita thambulam" ceremony was taking place, a tali (plate) full of rupees was placed along with six other plates containing coconuts, flowers and so on. The boy stood aghast. He objected to this backdoor insertion of dowry which he had refused to accept, on which he had put his foot firmly down. He called his brother and asked him to remove it. Sir, we want men of that calibre, we want women of that calibre in this country, who would say that they would not take even a token coin as a condition of marriage, not one piece of any material as a condition of marriage.

The girl might be ugly. And what if? I have known great leaders of this country who have married what you would call ugly wives. When they are brought to social meetings some may say that somebody's nose is snubby, somebody's appearance is not becoming and so on. But these women—they are uncut diamonds, with character and quality. You must consider the way in which they conduct themselves, they manage their households, they keep everybody together to promote peace and harmony and, then, give offsprings of whom the nations might be proud. That is why they are generally placed in the highest pedestal. Their men might be ICS officers or First Law Member in the Viceroy's Council and so on. To these women their face may not have been their fortune. But on the other hand they had everything fundamentally great and noble everything more lasting as qualities in them and that was their fortune. Therefore, I would say that if any man marries a girl just for appearance I am very sorry for that man.

There is the signature campaign that is going on in the country, taking the signature of various associations of young people in the country and asking them not to accept dowry. I would say, if any boy marries money and not the girl, he cannot be a true servant of our country, he cannot be a true servant of our society, he cannot be a true servant of our nation. If any girl wishes her parents to give her away with money, however great that person might be, she too cannot be a true servant of this country, a true servant of the society, a true servant of our nation. We have to bend our heads in shame if people do like that.

Therefore, Sir, with all the fervour that I could command at this moment—especially as I come from social welfare organisations that have pleaded hard, that have struggled hard for the passage of this Bill—I appeal, as my sisters have pointed out, to the hearts of all persons present here, that since you have agreed on many clauses of this Bill, please see that the Bill is passed and it becomes an Act so that the vast millions of suffering, tortured young girls who are to be makers of future India, of our nation, who are to be the torchbearers of peace in the international world hereafter, who are the keepers of our hearths and homes, will be relieved of their sufferings and their tears will be wiped out. We will thus usher a new era in this country.

It is not something very new. You have the Mahabharata. You have the Ramayana. Our great ancient peopeople have been there. They were giving the fittest and the highest status to our women. The same status we should give them back after the intervening period of foreign invasion and other things which have made this giving dowry as a piece of security for a girl. Hereafter the boys and girls have to stand on their own feet and demand fundamental rights which are equal to both. The great Subramania Bharatiar patriot and poet of our country had declared with vision of a prophet of a free India—and emancipated womanhood:

Mather thammai izhivu seyyum
Madamayai koluthuvom;
Vaiya vazhvu thannil endha
vahaiulum namakkule
Thathar enra nilamai mari

"Angalodu pengalum sarinigar samanamaha vazhvom indha nattile."

He said: "samanamaha vazhvom". That is the only vow that men and women have to take. I am sure, fathers, mothers, sisters, and brothers who are sitting here will all bless that and will do everything to see the dawn of that golden age.

Some hon. Members *rose*—

Shri Raghunath Singh (Varanasi): Sir, is it that only hon. Members from the fair sex can catch your eye?

Mr. Speaker: A number of lady Members have expressed their desire to speak. I thought they were more interested. I will give chance to men also.

Shri N. R. Muniswamy (Vellore): Mr. Speaker, Sir, I am sure this evening the ladies in the country will all feel very happy at 5.00 p.m. because by then this Bill would have been passed. The previous speakers have given very many points for our consideration, but as this Joint Session is intended only for the consideration of a few aspects I am not going to repeat the arguments advanced by those previous speakers.

I want to confine myself only to the three aspects of the question. The first one is about the retention of the words: 'directly or indirectly" in clause 2 of the Bill, when it will read:

> "2. In this Act, 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly."

The Prime Minister has said that these words must be there with a view to covering any indirect payment that might possibly be made either by book adjustments or any other means, so that the man who receives such dowry indirectly will also be punishable. But I have to disagree with many of the hon. Members here who pleaded for retention of these two words, because in clause 3 it is said:

> 'If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

The words "directly or indirectly" are not here. Actually, these words "directly or indirectly" ought to have found a place in the punishment clause also. If you do not include those two words in the penal clause, you have no right to include those two words in the definition clause, because according to the penal clause a person who gives or takes or abets the giving or taking dowry will be punished.

As I have already said, we do not find the words "directly or indirectly" in clause 3. We cannot introduce those words in clause 3 now, because the message of the President is such that we cannot touch clause 3. It is therefore that I have moved an amendment seeking to insert these two words in clause 4. My amendment reads like this:

> Page 2,—
>
> for clause 4, substitute—
>
> "4. If any person, after the commencement of this Act, demands, directly or indirectly, or gives or takes or abets the giving or taking of dowry, from parents or guardians of a bride or bridegroom, as the case may be, he shall be punished with imprisonment which may extend to six months or with fine which may extend to five thousand rupees, or with both;
>
> Provided that no court shall take cognizance of any offence under this section except with the sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf."

If this is accepted, we can obviate the difficulty with regard to the introduction of these two words in clause 3.

Then I come to clause 4 itself. In the punishment clause I find that there is the word "demand". Demand postulates an existing valid agree-

ment. Unless there is an existing valid agreement we cannot demand. I should say, Sir, that the word "demand" has been used rather loosely. Here the word has been used in the sense that even if people merely ask somebody to pay a certain dowry it will be taken as a demand Actually, if you use the word "demand" it means that the person concerned has got a right to ask for the money. According to clause 5, any agreement of giving and taking of dowry shall be void. When the agreement itself is void, nothing comes out of it and there cannot be any demand. If mere asking for money is deemed to be a demand in this case, I should say that the word "demand" has been loosely used. It cannot be used only to cover a mere request. Therefore, I say that the word "demand" has not been correctly used and the clause has not been correctly worded. So, this would not be regarded as a very lucid piece of legislation. That is the reason why I say that the word "demand" has to be omitted or used in the correct sense so that it gives some proper meaning. Otherwise, a doubt may arise as to the implication of the word "demand".

Generally, the parents of girl would be asked to give certain amount by way of dowry by the bridegroom or his party. So, I do not know why the bridegroom is also included in clause 4. Clause 4 reads:

> "If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry...."

In our parts, I do not think that the bridegroom is every asked to pay dowry to the bride. It is always the other way round; only, parents of the bride are asked to pay heavy sums to the party of the bridegroom. That is the reason why I have given an amendment to say that the words "or bridgroom" should be deleted. Taking dowry from the bridegroom is not at all prevalent in our parts. It may be in vogue in northern India, or any other part of India except south India. The demand is always from the side of the bridegroom. So, I want those two words to be deleted from the clause.

As regards the Explanation, I am willing it its deletion. Acharya Kripalani said that we are governed by ladies. Though we may be governed by ladies, I differ from him in the sense that ladies are dependent from birth to death. Till their marriage, they are dependent on their parents; after marriage they are dependent on their husbands; after the death of their husbands, they are dependent on their eldest son or somebody else. So from birth to death they are dependent. Economically and socially they are inferior to men. It may be that politically and educationally they may be well up. All the same, this is an economic problem. The dowry system is an unmitigated evil and should be eradicated. In the old days, when we used to give a girl in marriage, it was known as Kanya dan. Then, at the time of the marriage, we also used to give cows' dan. Now according to this explanation, even cows cannot be given at the time of the marriage. Because, the explanation reads:

> "For the removal of doubt, it is hereby declared that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to the dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties."

Therefore, even if we give a cow, it would be deemed to be a present given in consideration of the marriage, in which case the person concerned can be prosecuted. That is why I say that this explanation is not happily worded and should be removed.

[Shri N. R. Muniswamy]

While perusing clause 3, I find that the words "directly or indirectly" are not used in that clause. Clause 3 is very important and essential in the sense that when we punish a man we have to see the offence committed by him. If he has committed an offence of having indirectly demanded or received the payment of dowry, that has to be specifically mentioned in the punishment clause. In clause 3, which is the punishment clause, the words "direcely or indirectly" are not used. Therefore, to be in conformity with clause 3, in clause 2 also the words "directly or indirectly" should be removed.

Then, in the Sharda Act there used to be a provision asking the complainant to make a deposit of Rs. 100 or 200 before filing a petition. If the person against whom a complaint is made is acquitted, he used to be given some compensation also. There is similar provision in section 250 of the Criminal Procedure code. So, I feel that under this Bill also, if a person is acquitted because there was a malicious prosecution, he must be given certain compensation. That must be made explicit in the Bill, apart from being provided as a remedy in civil suits. That is why I have moved my amendment Nos. 34 and 35.

As regards the security amendment I want to say something. The hon. Deputy Law Minister has brought in an amendment wherein he has stated that unless the previous sanction is obtained from the Government, or anybody authorised by Government, no court shall take cognizance of any offence under this Act. I want to add another provision, reading:

> "Provided further that the court while acquitting the accused may award compensation to him if it finds the complaint to be false and frivolous."

If this proviso is there, then there are two checks against the frivolous complaints. Also, if ultimately the complainant does not succeed, the court must have the right to award compensation to the aggrieved party, if it is a frivolous case. That is the object of my amendment No. 32.

At the same time, I feel happy that we have this experience of the joint session after a period of ten years, due to certain disagreements of a verbal nature between the two Houses, for which a joint session is inevitable under the Constitution. If only the Law Minister had enough tact and altertness, there would not have been any necessity for this joint session. Because, we have now been asked to vote in a particular way. If only he had done that in either Lok Sabha or the Rajya Sabha, this joint session could have been obviated or avoided. But he has not done it. I think his idea is to give the freedom of vote in this case as this is a social legislation. But every social legislation is bound to have some opposition. Since hon. lady Members have brought in some pressure, I think this whip has been issued. Anyhow, we have had the experience of this joint session. But, it could very well have been avoided. After all, it is the tax-payers money that is being spent. All the same, this is a good experience that we have had after ten years. I only wish this ought not to be repeated hereafter.

Mr. Speaker: I am really surprised that the hon. Member is saying something which will go against the spirit of the Constitution. What is the point is saying again and again. "We have had the experience"?

Shri N. R. Muniswamy: I apologize.

Mr. Speaker: Order, order. Even inadvertently, he should not have said "I have had the experience of the joint session", as if it is a bad experience. He may not agree to the convening of the joint session, but having come to the joint session, going on saying "we had had the experience of the joint session", as if it is a bad experience, is not proper. I am really surprised. There is no harm if there is a joint session. He could have said that this should have been settled earlier. But he cannot say that having a joint session is a bad experience.

Shri N. R. Muniswamy: It is a good experience, Sir.

Shri Tajamul Hussain (Bihar): Mr. Speaker, under clause 2, "dowry" has been defined as the giving of present by the parent or guardian of the bride or bridegroom or by any other person . . .

Dr. M. S. Aney (Nagpur): Will the hon. Member address the Members?

Shri Tajamul Hussain: I will address the Speaker and not the House.

Mr. Speaker: Hon. Members know that everybody must look at the Speaker and address him. Therefore, I expect every hon. Member to look half at the audience and half at myself.

Shri Tajamul Hussain: The mike has been placed in such a position that I have to look at you.

Mr. Speaker: I must also hear him.

Shri Tajamul Hussain: I was saying that "dowry" has been defined in clause 2 as giving present in the form of cash or ornaments or property by the parents or guardians or the bride or bridegroom or by any other person. Therefore, if any property is given by the parent or guardian of the bride or bridegroom, it is being given directly. But if it is given by any other person, it is being given indirectly. Therefore I say that the words 'directly or indirectly' are redundant here. The insertion of these words, I submit, would be meaningless. But since it is immaterial whether these words are inserted or not, I do not pursue this point.

13 hrs.

Next I take up clause 4. Under clause 4 if any person demands any dowry from the parents or guardian of a bride or a bridegroom, he will be punished. But if any person demands any dowry from the bride herself, he will not be guilty under this clause. It is very clear. Suppose, there is a girl and there is a boy and the boy wants to marry her. He goes to her and says, "I want to marry you, but I demand dowry of so much from you". It will be no offence. He will clearly say, "I do not want any dowry from your guardian or parents". He can even ask his pleader to write to the bride herself and the pleader will write in this manner, namely,

> "Dear Kumari So-and-so,
>
> My client, So-and-so, wishes to marry you, but he demands so much money as dowry. It must be understood that he is not demanding this from your parents or guardian."

Will that be an offence under this clause? I am asking you this. This is a serious flaw in clause 4.

Apart from that, there are likely to be many complications if this clause is passed. Suppose, the parents of a bride and a bridegroom are negotiating for the marriage of their children and everything is complete. The engagement is complete and even the tilak has been done. Everything is finished except the religious ceremoney of marriage and before that for some reason or the other the bridegroom backs out. There may be some secret and very plausible reason for him to back out. That is immaterial here. Then the father of the bride will feel so much insulted and humiliated for everybody in the locality and in the city knows about that. Now he can go and file an application before a magistrate first-class or whatever authority it may be and say, "The engagement was complete; the tilak was complete; the marriage was going to take place and everything was completed. These are the witnesses, undisputable witnesses. Suddenly he demanded money from me as dowry and therefore it is broken." It will be such conclusive evidence before any court that the poor man will be

[Shri Tajamul Hussain]

convicted although he has committed no offence.

Apart from that, I submit that mere demand of dowry cannot be considered a criminal offence. I am a lawyer but I have forgotten the law. The hon. Law Minister knows much more than I do and, if I am wrong, I hope he will correct me. I was taught about 40 years ago that in order to constitute a criminal offence there must be two ingredients and that without those two ingredients there cannot be a criminal offence. The two ingredients are *mean rea* and *actus reas*. *Mens rea* means mind, the intention to do and *actus reas* means actually doing that. I will give you an example.

Suppose, I want to kill A. I openly say that I want to kill A, but I actually do not kill A. I have committed no offence under the Indian Penal Code.

An Hon. Member: You will be arrested.

Shri Tajamul Hussain: No offence has been committed. You must learn the law if you do not know anything about it.

Pandit K. C. Sharma (Hapur): If you write an obscene letter to a woman, is it not an offence under section 509? It is an offence.

Shri Tajamul Hussain: If I write any obscene letter to you, it is no offence. You must know that. There must be publication. If I write a letter condemning you, calling you a thief and everything, it is no offence if it is a closed letter.

Pandit K. C. Sharma: Write a letter and you will be caught.

Shri Tajamul Hussain: I will write to you if you want. It is no offence. If you do not know the law, what can I do about it?

Sardar Hukam Singh (Bhatinda): A letter coupled with this declaration is enough.

Shri Tajamul Hussain: There is interference going about by non-lawyers. I do not know why.

Suppose, I actually kill a person without any intention to kill. It may be accident. Then I commit no murder. There is the hon. Law Minister and he will tell me whether I am right or not.

An Hon. Member: Under the law that we are enacting, you will be punishable.

Shri Tajamul Hussain: If you enact the law, it will go up to the Supreme Court and the Supreme Court will say that the hon. Members of Parliament sat together and passed a law which cannot be enforced. They have done it before. This is not the only time. They have done it many times before. So I say that mere demanding of anything is no offence.

There is a difference between demand and attempt. If I attempt to commit a crime, I am guilty. What is the difference between attempt and demand? Suppose, I want to commit burglary. I go to a house and try to break open the iron safe. I am trying my best to open the iron safe, but I fail, "I have attempted". I have committed an offence. But while I am demanding and asking you "Give me so much money" and you refuse to give me, there is no offence, absolutely no offence committed. You may pass this section, it will be no offence. I am sorry the two hon. Law Ministers are not here, otherwise they would have given me a reply on this point particularly.

An Hon. Member: We are all law makers.

Shri Tajamul Hussain: But not law interpreters. Law interpreters are elsewhere. Whatever you may make,

they may absolutely brush aside the whole thing.

Mr. Speaker: The hon. Member has two minutes more.

Shri Tajamul Hussain: As regards clause 4, it is immaterial to me. If the hon. Members want it, they may have it. It is redundant and nothing will happen because nobody will be guilty.

As regards Explanation I, it says that making of presents if that is not for the consideration of marriage is not dowry. That means that any present made in the form of cash etc. shall not be deemed to be dowry within the meaning of this section. A person who wants to give dowry but does not want to come within the mischief of the section can openly say that he is not giving any money in consideration of marriage as dowry but is making a present. What shall be the interpretation of law? I repeat the same thing. I may write a letter to the girl's parent and say, "Please make a present" and he writes back, "Yes, I will make a present not in consideration of marriage", it will be dowry, but you cannot catch hold of him under this.

13.09 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

Therefore the very object of the Bill will fail. I am seriously of the view that this explanation should be deleted.

In conclusion I would like to say that no amount of law, Bills or Acts will prevent this evil.

An Hon. Member: Question.

Shri Tajamul Hussain: It is not sufficient. This is something, of course. There is no doubt about it. For instance. when you say "demand", "demand" is meaningless. But there is one redeeming feature, that is, that people might get frightened. There are uneducated people in the country. They will say,

अगर मांगोगे, तो सजा होगी ।

And the same thing about the Explanation. As regards the insertion of the words "directly or indirectly", better not do it. Both the insertion of these words and clause 4 are meaningless.

In conclusion I wish to say that this Bill is not sufficient to prevent the evil which is prevalent from, God knows, how many years. It is not only among the Hindus that this is **going on: it is everywhere in India.** In my opinion there are only two ways by which you can prevent this obnoxious evil of dowry. The first is, in my humble opinion—I may be wrong—we must give our girls complete freedom, education, both mental and physical, and make them absolutely fit. Give them good education, and let them play hockey, foot-ball, everything. Let them be free. And say that it will be an offence for the parent or the guardian—of course, there should not be any guardian, because no minor girl should marry—say that it will be an offence if the father stands in the way; if the daughter wants to marry a boy or if the son wants to marry a girl, there should be no obstruction from the father. That is so in every civilised country. We have just got independence and we are gradually building up our nation. A time will come when this will happen, and this is one of the ways by which you can abolish dowry.

I wish I could say that this Bill was perfect. It is not. But it is something to go on with. So I do not oppose it.

The second thing is this. My hon. sisters will pardon me if I say something against them. They say that if the parent or the guardian gives dowry, he should be punished. But you know that no father of a girl will give dowry, without consulting his wife. Therefore, if he is going to be punished, she must also be prosecuted.

[Shri Tajamul Hussain]

If this is done, I can assure you that nobody will dare give dowry or take dowry, because the wife will come forward and say, "My dear, don't attempt to do anything, because if you go to jail I also will have to go". And our women are so backward and shy that they will never instigate or encourage or say anything to their husbands whereby dowry will be given or taken by them. That is one of the ways of preventing this.

This Bill, if it becomes an Act, may be of some use. Therefore I sincerely hope that in the interests of our girls the Bill is passed. But it will not be of much use. For that purpose our sisters must go and organise and have social reform. Social reform cannot be done by a Bill like this. You must go everywhere. I will tell you about my own case, in connection with what I said earlier about giving good education to the daughter. I have two daughters. I gave them the good education, and I have got very good sons-in-law. That was on account of the education I had given to my daughters, not on account of money. I have no money. And to my sons, similarly, I gave the best education, Indian and foreign education, and I have got good, highly educated daughters-in-law. There was no question of dowry and all that. In the same manner, you must give the best education to the girls and the boys, education, physical and mental training, everything. And then your dowry system will go for ever. But it will take a hundred years, not now.

Mr. Deputy-Speaker: Shri Khadilkar. I will request hon. Members to finish when I give the second ring. There is enough warning when I give the first ring.

Shri Khadilkar (Ahmednagar): Mr. Deputy-Speaker, Sir, if most of the hon. Members are not swept off their feet by the reverberating and torrential orations of the lady Members of the House, perhaps they would be in a better position to give their serious thought to the measure before the House; because I consider that a certain pressure is being exercised and a propaganda carried on, "In case you are not with us, you are a reactionary, you are orthodox, you are conservative." It is not like that. Therefore, when this House gives its consent to a measure, it has to consider what the opinion about it is in the eyes of the people at large, because there is a consensus of wisdom in society; and therefore the dignity and the prestige of this House would be enhanced if we take that into consideration when we enact any measure of social reform of this nature.

This House should take into consideration a century of the social reform that has now been completed and what has been achieved till now and what those who used to carry on incessantly this work with some organisation and education in that behalf had to say about it. As you know, along with the Congress, a social reform conference was organised by the late Justice Ranade who devoted his entire life for social reform in this country. He had said that in social matters if you legislate in a hurry, thereby creating a big gulf between the social consciousness and the legislators or the legislation, it will have a very adverse effect in the long run. If we remember these wise words of one of the stalwarts in this field of social reform, I think....

Shri Yadav Narayan Jadhav (Malegaon): What year was it?

Shri Khadilkar: I am coming to that. His work was carried later on by other people. I have no time, but if the House is interested I will refer to those things, to the history of social reform in this country.

But the question today before us is this ,namely, for whom we are legislating and whether it will have the desired effect. Unfortunately, the idea is gaining ground in this country that if there is an evil, there is no other

responsibility on us except that we have a forum here, we legislate, and that the evil is at once eradicated. For instance, you have heard recently that there is growing communalism in the country. So the idea seems to be all right, the short cut to remove that evil is, bring some law, ask the Law Ministry to prepare a Bill and do away with the evil. In the same manner, unfortunately, we are looking at this evil of dowry in our society.

Acharya Kripalani was right when he asked, "For whom are you legislating?" You must give serious thought to it. Are you legislating for the entire country and the entire people No. Are you legislating for particular regions? Because from region to region customs differ, and from community to community and from caste to caste. So far as dowry is concerned, on our side, in Maharashtra, even now among certain sections of the society, the bridegroom's parents have to pay for a bride to get their son married. This is the position. I do not want to give more instances about it. So you are legislating for a small section of educated, half-educated lower middle-class people who are being harassed by the evil of dowry system.

And why does this harassment take place? If you look at it, you will find that the considerations of property dominate the settlement of marriage from the lowest to the highest level. If a mother wants to marry a daughter, her ambition is to get her married at the upper level.

Or, if a son is to be married, the mother will see that the bahu or the bride comes from the upper strata of society and some settlement incidentally will be made regarding property. So long as property dominates marriages in this country, I do not think you can just legislate and remove this evil of dowry. This is not the way to do it. It will let loose a field for those who, in our village society, let us remember, act as marriage brokers. I am using that term knowing full well the village conditions. If you go to a village, if a marriage settlement is to be arrived at even now, somebody from that caste which is supposed to be the leader, must come and give his consent. To woo him is a problem. He may not take money. The question of his prestige and his word is involved. A marriage broker has to be satisfied to complete a betrothal sanctified into a marriage. This is our village society. Hon. Lady Members of the House with their effervescent enthusiasm charge all those who give second thought to a social legislation of big nature with fearful, dangerous consequences to the very basis and harmony of our village society. Let us remember, this is not a revolutionary way. They want to pass it and go to the people and say, we have done it and but for our staunch and persistent effort, the hon. male Members of this House would never have agreed to pass this legislation. This is a wrong impression. Have they done their duty? It is not the ladies who have to foot the burden of dowry. The males have to foot it in the last analysis. Have they done their duty? Today, they meet in conferences. They are more or less, conferences of high class ladies. Some resolutions are passed. They never care to go to the village people, as Gandhiji said, as dedicated missionaries to uplift them to raise their social consciousness and bring them to a level where they will realise the social evils that are persisting in our society. I would like to say this to the hon. Members. In our society, even when the Hindu Law was there, custom has dominated a lot and prevailed over law. This is the conclusion which has been drawn by Maine in his historical survey. He has come to this conclusion in his monumental work. When we know all these things, I would make an apeal to the House, before coming to the provisions of this legislation. Have we given enough thought to this? The drafting of this Bill is bad. This legislation would let loose new evil forces....

Mr. Deputy-Speaker: Order, order. I find there are some Members who stand as observers and there are others who are tapping their backs against the seats and do not care what

[Mr. Deputy-Speaker]

is happenng inside. Order, order.

Shri Khadilkar It will give a handle to the village goondas—I wo'nt use the word in a fresh sense—brokers is a little better word—in the institution of marriage which has got more and more commercialised. If you read this Bill, though we are not asking the people to register a marriage, the whole drafting smacks of commercialisation of marriage which is something solemn and a sacred ceremony in everybody's life. That aspect we have totally forgotten. While drafting the Bill, I would like to point this out to the Law Minister that this aspect is negatived.

There is another aspect which must be considered, particularly by the Lady Members from the left who are agitating throughout. When our administration has failed to control the economic life in the country in a developing economy, and it has shown its weakness, do you want to leave it to the administration to control the social behaviour in a particular respect like marriage or other social activities or relations in our society? Is it proper? Is it progressive? I would like to ask the Lady Members from the Communist benches who are advocating with a big voice, why they are not doing enough to go to the people on this social aspect and educate them and raise their social consciousness and create public opinion. That would ultimately prevail in eradicating this evil.

Shrimati Parvathi Krishnan: Since he is posing a question, would I be allowed to reply?

Shri Khadilkar: Later on; don't take my time.

Mr. Deputy-Speaker: I am sure, the hon. Lady Member can answer. But, this is not the moment when a reply is needed.

Shrimati Parvathi Krishnan: He is posing a question, but says, 'don't take my time!'

An Hon. Member: All that is being done.

Shri Khadilkar: I know how it is being done. By this method of educating them and raising their social consciousness, going to them as missionaries—particularly the Lady Members of this House and their organisations—a one, you can eradicate evils like dowry; not by this legislation. That is one aspect.

Now, I will come to the provisions of the Bill and I will finish in a few minutes. So far as the Bill is concerned, why I say it is bad drafting is this. If you look at the title, it is, "A Bill to prohibit the giving or taking of dowry". Here....

Mr. Deputy-Speaker: It is not the title where we have disagreed. On the parts where we have disagreed, the hon. Member may say.

Shri Khadilkar: As it is a Bill, once placed on the statute after we have passed it then—when you go to a court of law with some litigation, the courts will have to put their seal of approval and they will have to say that proper thought was given or not. Leaving that apart, the question is this. When the question of Explanation came, the hon. Lady Member said, why not give mangala sutram. I know in certain circumstances, the mangala sutram with jewellery costs Rs. 5000 and they are given as presents. Mangala sutram is not some black trinket as it used to be formerly. It has assumed a dowry sense in every respect of that term. So far as the Explanation is concerned, I feel that it should be kept as it is. It should not be dropped. You should not penalise all these small things, small luxuries of life which give a little joy to the poor people in their dull, routine, humdrum life. Marriage itself is a big occasion in a small man's life and he will do anything to enjoy a little and forget the worries of the world and the miseries round about. If he gives even a cocoanut or even a saree, he will be punishable if it is considered as consideration. That is the main question.

So far as clause 4 is concerned, can we penalise demand? That is a serious matter. Yesterday, the hon. Member Shri P. N. Sapru raised this point. I do not want to take much of the time. So far as this demand is concerned, I would like seriously to consider the modification of the clause. It will not remove, as I said, a patent evil inherent in that clause. Because, in a village, the marriage settlement is a community settlement. If some parties are not satisfied, and the marriage is broken that girl will be ruined for life. Then, there will be a spate of litigation because somebody's brokerage has not been paid. There is this aspect if we penalise the demand. Therefore, I would urge that this clause penalising demand should also be dropped.

Finally, I am appealing to this House. Are we enhancing the prestige of this House by passing this legislation? When I go through the history of a century of social reform in this country and study all the social effects it had had, I find that ultimately legislation is certainly a remedy if it is resorted to with caution. It has an impact. The Prime Minister said yesterday that this will have a liberalising impact on our society just as the Hindu Law. He did not understand the proper implication of this. Excuse me for saying this. The Hindu Law is governing our property relationships in our society. But, this is a custom inherited from generation to generation. If we are going to let loose the forces of reform in the countryside by passing this legislation, to get the satisfaction that we are liberating by stages the womanhood of this country, we are deceiving ourselves and it will be most hypocritical on our part. I would appeal that the widening gulf between consensus of social wisdom in the country and the judgment of this House should be narrowed down when we enact any legislation of this nature. But this Bill is likely to further widen the gap, and keep the people apart and give them a feeling 'Oh' this august body may pass a law, but it does not matter, because it is not going to be implemented.' It would breed disrespect or contempt for the law. Even among the Members of Parliament, I know to my greatest regret that some of them who recently performed some marriages here, which were attended by the highest dignitaries of the State, I am told, had taken Rs. 40,000 or Rs. 50,000 as dowry. I would like to ask: Is this the way to enhance the prestige of the House, the prestige of the legislators, the prestige of the representatives of the people?

Therefore, I would submit that either you withdraw his Bill or make it as innocuous as possible, by leaving out all the penal clauses, just making it a directive type of legislation, which would give impetus to reform. If that is done, perhaps, that will meet the present situation.

ज्ञानी जैल सिंह (पंजाब) : सम्माननीय डिप्टी स्पीकर साहब, इस बिल पर जहां तक दोनों हाउसेज का सवाल है काफी बहस हुई है । अब सिर्फ राज्य सभा के अमेंडमेंट्स को इसमें शामिल करना बाकी है । आफिशियल अमेंडमेंट आयी है उसके मुताबिक यह नजर आता है कि कुछ अमेंडमेंट एक्सेप्ट कर लिए जा सकते हैं ।

मैं इसके सम्बन्ध में यह जो एक्सप्लेनेशन नम्बर १ है इसको डिलीट करने के हक में कुछ अर्ज करना चाहता हूं । इस बिल की जरूरत कितनी है इसके सम्बन्ध में कुछ कहने की जरूरत नहीं है । मैं विश्वास रखता हूं कि यह एक कदम है जो हम आगे बढ़ा रहे हैं मगर यह काफी नहीं है । इसमें आगे चल कर काफी अमेंडमेंटस करने की जरूरत पड़ेगी और हो सकता है कि हमको अपने समाज का यह ढांचा जिस तरह से आज

[ज्ञानी जैल सिंह]

शादी विवाह का है इसको बदलना पड़े । राजनीतिक स्वतंत्रता के बाद हम आर्थिक और सामाजिक आजादी के लिए जद्दोजहद कर रहे हैं, उसी का यह एक अंग है । नाबराबरी होने की वजह से यह गरीब और अमीर का भेद है और इसी वजह से यह बीमारी ज्यादा बढ़ती है और कायम रहती है । जहां तक मैं समझ सका हूं विवाह शादी के साथ कानून का कोई ताल्लुक नहीं है । यह तो प्रेम और मुहब्बत का सौदा है और दिलों का सौदा है । इसके साथ दहेज का होना जुदा बात है, जो हमारे देश में फला हुआ है । इसको बन्द करने के लिए हम यह कदम उठाना चाहते हैं, लेकिन अगर इसमें यह एक्सप्लेनशन रहता है जिसमें कैश, आरनामेंट, क्लाथ और अदर आर्टिकिल्स शामिल हैं और वह शादी के मौके पर दिए जा सकते हैं, तो मैं समझता हूं कि इस बिल में जान बाकी नहीं रह जाती और इस कानून को बनाने का कुछ फायदा नहीं होगा क्योंकि जो अमीर आदमी होता है उसके बड़े रसूख होते हैं और उसके बहुत से ढंग होते हैं । और आज जो यह दहेज का सवाल है वह गरीब पर लागू नहीं होता । गरीब लोग तो बेचारे औरत के लिए तरसते रहते हैं, उनकी तो शादी नहीं होती । अमीर आदमी डाउरी मांगता है और अमीर आदमी ही डाउरी देता है । इसलिए अमीर आदमी को इस एक्सप्लेनशन की वजह से काफी गुंजाइश मिलेगी कि वह चोरी कर सके, और यह बीमरी हमारे यहां पड़ी रहे ।

मैं यह तो समझ सकता हूं कि इस बिल की वजह से दहेज का जो आम तौर पर दिखावा किया जाता है वह चला जाएगा । इससे गरीब आदमी सब्र कर लेगा और धनी आदमी अहंकार से यह नहीं कह सकेगा कि मैं ने इतना दहेज दिया है और गरीब आदमी शर्मिन्दा नहीं होगा कि मैं ने नहीं दिया । लेकिन यह दहेज की बीमारी रूकेगी नहीं । इसका कारण यह है कि जो लोग दहेज देने वाले हैं उन पर हमने प्रतिबन्ध नहीं लगाया है ।

अगर इस बिल में से क्लाज ४ को डिलीट कर दिया जाता है और इसको शामिल नहीं रखा जाता है तो फिर मैं समझता हूं कि रिश्ते के वक्त जो डिमांड की जाती है उसको हम नहीं पकड़ सकेंगे । मेरे ख्याल में यह जो शादी विवाह के वक्त में डिमांड लोग करते हैं उसका मुजाहिरा नहीं करते हैं और न इन मौकों पर लोगों को इकट्ठा किया जाता है बल्कि वह तो घर में बैठ कर सौदा तै कर लिया जाता है । इसलिए मैं समझता हूं कि जब तक हम अपने मुल्क में स्वयंवर की रस्म नहीं लाते तब तक यह दहेज की बुराई कतई तौर पर खत्म नहीं हो सकती । इसलिए मैं समझता हूं कि इस क्लाज ४ को कायम रखना निहायत जरूरी है जिससे कि हम उन लोगों को पकड़ सकें जो डिमांड के रिवाज को कायम रखे हुए हैं और उस पर फख्र करते हैं ।

एक वह हैं जो हमारी जान लेते हैं
एक हम हैं जो उन पर जान देते हैं ।

तो जिन लोगों के दिमाग पर इस रिवाज का असर है वह समझते हैं कि ऐसा कर के हम ऊंचे उठ सकेंगे और हमारी इज्जत बढ़ेगी । ऐसे लोग इस रिवाज को रुकने नहीं देंगे । मेरा तजुरबा है कि जब तक अमीर आदमी को हथकड़ी न दिखायी जाये या जेल का दरवाजा न दिखलाया जाये तब तक वह किसी चीज से नहीं घबराता । वह इन बातों का इन्तिजाम कर सकते हैं कि कोई उनकी शिकायत न करे, कोई उनका पल्ला न पकड़े ।

पंजाब में और कुछ दूसरे सूबों में यह कायदा हुआ कि कोई आदमी ५० से ज्यादा लोगों को दावत में न बुलाए । लेकिन अमीर लोग ऐसा करते थे कि एक कार्ड अपने नाम से छपवाया, एक अपने भाई के नाम से छपवाया,

एक बहिन के नाम से छपवाया और इस तरह से ६-७ कार्ड छप जाते थे और तीन सौ चार सौ आदमियों को बुलाया जाता है और पार्टी चलती थी ।

यही नहीं कुछ जगहों पर जैसे पंजाब में और दूसरे सूबों में भी कुछ लोगों में ऐसा रिवाज है कि बेटे वाले को अपनी बारात का खर्चा करना पड़ता है और जो बेटी वाले के मेहमान होते हैं उनका भी खर्चा उसी को करना पड़ता है ।

इसलिए जहां तक इस बिल के मंशा मुबारक का सवाल है, जहां तक इस बुनियादी सवाल का ताल्लुक है उसके साथ मैं सौलह, आना हूं और उसकी ताईद करता हूं, मगर मैं यह चाहूंगा कि यह जो एक्सप्लेनेशन है इसको निकाल दिया जाए। अगर इसको नहीं निकाला जायेगा तो इसमें फैश, आरनामेंटस, क्लाथ और अदर आर्टिकिल्स इतनी चीजें आ जाती हैं कि उनसे दहेज पूरा किया जा सकता है । इसके मुताबिक लाखों के जेवर बनाए जा सकते हैं, लाखों के कपड़े बनाए जा सकते हैं और दूसरी चीजें दी जा सकती हैं । इसलिए मैं आशा करता हूं कि दोनों हाउसेज के मेम्बर साहबान इस बात पर जोर देंगे, और इस पर अपनी राय देंगे कि इस एक्सप्लेनेशन को लाइन १ से ६ लाइन तक डिलीट कर दिया जाए । जै हिन्द ।

Shri B. D. Khobaragade (Maharashtra): I rise to support this Bill. Before coming to the controversial clauses on which there could be no agreement between the two Houses, and consequent on which it was necessary to convene a joint sitting of both the Houses, I would like to make a few observations on this Bill itself, and I would try to meet the points that were made by certain hon. Members who tried or attempted to oppose this Bill unsuccessfully.

It has been mentioned by certain Members that social reform cannot be brought about by legislation. My views on this matter are different. It is my opinion that social reform can be brought about by legislation. But, for that purpose, two things are essential. The first is that the law that Parliament may make must be capable of being enforced. The second requisite is that there should be a sincere intention on the part of Government to enforce the law. Unfortunately, as it is, we notice today that there is a great craze on the part of Government to make all sorts of laws which is only matched by incompetence or at least reluctance on their part to enforce those laws. The Government desires or intends that after passing a legislation, it should be treated as some decorative piece of the statute-book. This attitude on the part of Government must be changed. I am quite sure that if this attitude is changed and after enacting social law, the Government takes every precaution and care to enforce it, social reform could be brought about in this country. There are a large number of measures which have been adopted by this august Parliament. If they had been implemented with zeal and enthusiasm by the Government, there would have been a radical change in society today.

The second thing I would like to say is that we should consider what is the cause for the present status of women in today's society. In my opinion, it is because of the social laws enacted by Manu and imposed on society in the name of religion. Under these laws, women have been treated as chattel which could be owned and possessed and also disposed of and discarded at will by men. This outlook—this religious and social outlook—must be radically changed.

What do we find today? As mentioned by one hon. Member, today we find a lot of advertisements in newspapers. If we consider those advertisements, we find that woman is treated as a commodity which could be sold and purchased through the

[Shri B. D. Khobaragade]

columns of newspapers. This position must be changed. In my opinion, the woman must be assigned her important and promenent place in society.

Coming to the controversial clauses, I would like to mention that the views of the Rajya Sabha are reasonable. I would like to support the amendments adopted by the Rajya Sabha. The Rajya Sabha has tried to strike a golden mean. That House was anxious to make this measure as effective as possible, taking care at the same time to see that it could not be used by unscrupulous and unsocial elements to harass or blackmail innocent persons in society.

As regards clause 2, the controversy relates to the insertion of the words "either directly or indirectly" and the deletion of the Explanation. These two amendments seek to make this clause more effective. If we remove the words "either directly or indirectly", anti-social elements in society would try to circumvent the provisions of this law. They would find by their ingenious brains all sorts of ways and means to outflank the law. If these words are not inserted, the whole purpose of this legislation would be defeated. If these words are not there, dowry could be given in some way or the other.

Just now my hon. friend, Shri Khadilkar, who was speaking with great zeal and enthusiasm, mentioned that if a person wanted to circumvent this law, he could do so easily by having for the marriage a mangalsutra worth Rs. 5,000. But I must draw his attention to the words "either directly or indirectly". Anyone who intends to give a gift of a mangalsutra worth Rs. 5,000 would be covered by these words. According to these words, it would amount to giving a dowry. Of course, the provision is there that it should be in consideration of marriage. So these words "either directly or indirectly" are very essential and they must be retained there. Apart from that, if these words are there, they will remove all doubts and clarify the law. For enforcing the law, it is very essential that we should have clarity. Clarity is the essence of law.

So far as the Explanation is concerned, it must be deleted. If we retain the Explanation, it would suggest a way by which this law could be outflanked. The Explanation itself suggests that gifts could be given at the time of, or before or after the, marriage? Why should we make this suggestion to those people who would like to break this law? I do not understand what harm would be there if the Explanation is deleted. Many Members have expressed the view that parents who desire to give gifts out of love and affection for their children would be debarred from giving such gifts at the time of the wedding. I must say that they have not understood the implication of the definition of 'dowry' in the Bill. Until and unless anything that is given at the time of or before or after the marriage is given in consideration of marriage, it cannot be treated as dowry. Therefore, if the father or mother intends to give to the child anything at the time of the wedding and if it is not in consideration of marriage, it could be given as gift to the extent of any amount. Such gifts could be given. That is also a way of circumventing this law. Therefore, I would like to suggest that some restriction must be imposed on the extent to which gifts could be given at the time of the wedding.

Then I would like to say that by passing this law alone, we shall not be able to eradicate this evil. Acharya Kripalani said that the women of this country should organise themselves in voluntary organisations and offer satyagraha at the door of those people who indulge in the giving or taking of dowry.

An Hon. Member: Also at the door of bachelors who refuse to marry.

Shri B. D. Khobaragade: In my opinion, offering satyagraha at the door of those people is not enough. Moreover, after the passage of this Bill, no parents would give dowry openly. If they intend to give it, they would give it secretly and stealthily. Then it would be very difficult for these organisations to know whether really any dowry has been paid or not. If Acharya Kripalani is really sincere about organising a voluntary organisation of ladies, he should do it not only for the purpose of offering satyagraha. He should, at the same time, urge upon those ladies to marry any individual who is educated and well-behaved, irrespective of caste, creed, community or even province. That is the only way in which this evil can be eradicated.

If we want to remove this evil of dowry, it is very essential that the whole social outlook must be changed. For that purpose, it is essential that the society should be reorganised. Nowadays, what do we find? There are all sorts of restrictions imposed because of caste. People are not allowed to marry even within their own caste, but only within their sub-caste. In certain communities there is the custom prevalent that boys, instead of girls, have to pay dowry.

Shri B. K. Gaikwad (Nasik): As among the Marwaris.

Shri B. D. Khobaragade: My friend suggests it is prevalent among Marwaris. Why should there not be marriages between Marwari boys and girls of other communities, in which case the girls will not have to pay, because the Marwaris will not ask for dowry. It would facilitate marriage between unmarried girls and boys, and also eradicate this most pernicious and evil system of dowry.

Apart from that, these days marriages are arranged by the parents. This also must be done away with immediately. Young boys and girls should be allowed to move in a free society. They should be allowed to mix with each other freely. They must come in contact with and must know each other. This acquaintance would develop into friendship, and if they like each other, if they love each other afterwards intimately, then the acquaintance and friendship would ultimately result in wedlock. Therefore, if we want to remove this evil system of dowry, the first thing that is essential is that the customs and the outlook that have been created by religious preachings in this country should be completely removed, and a free society should be created wherein people would be allowed to come together and develop their friendship. Inter-caste and inter-provincial marriages should be encouraged.

In the end, I would say that all the people who intend to remove this evil system of dowry, who desire that women should be on an equal footing with men, who desire that the inequality which was imposed by Manu, who reduced the womenfolk of this country to the status of mere chattel, should be removed, must support this measure and get it passed.

Mr. Deputy-Speaker: Most of the things that can be said have been said. Mostly, things are being repeated, though every hon. Member has his own way of saying it and making it very interesting. There would be no harm if hon. Members agree to reduce the time-limit to ten minutes and condense their remarks within that time.

पंडित ब्रजनारायण "ब्रजेश" (शिवपुरी): कृष्णम् वन्दे जगद्गुरुम् ।

उपाध्यक्ष महोदय इसमें सन्देह नहीं कि मेरे देश में और समाज में एक प्रकार की नहीं अनेकों प्रकार की बुराइयां घस गई हैं और समाज में जो दोष आये हैं उनके कारण समाज जर्जरीभूत होकर नित्य-प्रति शनैः शनैः पतन की ओर जा रहा है । समाज को स्वस्थ बनाने के लिये सबल और सशक्त बनाने के

[पंडित ब्रजनारायण "ब्रजेश"]

लिये उसमें आये हुए दोषों का निराकरण होना परमावश्यक है । उन दोषों में लड़की या लड़के के लिये पैसा मांगना, यह एक महान् पाप है जो समाज में उत्पन्न हुआ है । जब हम विवाह करने जाते हैं तो विवाह करते हैं लड़के और लड़की के साथ और बीच में उसमें पैसा आ जाता है—इस आत्मीय संबंध में, सम्पूर्ण जीवन का एक साथ चलाने वाले संबंध में जड़ पदार्थ बीच में आ जाता है जो कि चैतन्य को जड़त्व की ओर ले जाता है । इसलिये चैतन्य चैतन्य ही रहे और उसमें जड़त्व न आये, उसमें जागृति के चिह्न समाप्त न हो पायें, इस दिशा में प्रयत्न करना प्रत्येक बुद्धिमान समाज और वर्ग का कर्तव्य हो जाता है । इस दृष्टि से समाज में से इस दहेज प्रथा को निकालने के लिये जो बिल लाया गया है उसकी भावना का विरोध कोई भी बुद्धिमान आदमी नहीं करेगा । हमारे समाज में से किसी दोष को निकालना चाहिये, इस संबंध में क्यों विरोध करना चाहिये और जो व्यवस्था हमारे समाज को दुर्बल बना रही है उसको चलते देने की अनुज्ञा कौन देगा ? जिसकी बुद्धि भ्रष्ट हुई है जिसको समझ नहीं है, वही ऐसा कर सकता है ।

अतएव इस बिल की भावना का तो मैं आदर करता हूं, परन्तु उस भावना की पूर्ति के लिये जो पद्धति अपनाई गई है, जो मार्ग अपनाया गया है, वह सम्पूर्ण रूपेण मेरी समझ में नहीं आया है । दो प्रकार की बात यहां पर चल रही हैं । कुछ लोग यह कहते हैं कि कानून के द्वारा समाज का सुधार नहीं हो सकता है और कुछ लोगों का यह विचार है कि कानून के द्वारा ही समाज का सुधार हो सकता है । बात वास्तव में यह है कि यदि कानूनों के बिना ही दोषों को निकालना संभव होता और यदि कानूनों के द्वारा दोषों को न निकाला गया होता, तो फिर लोक-सभा की आवश्यकता नहीं थी, क्योंकि कानूनों के निर्माण के सिवाये लोक-सभा क्या करती है ? विधान निर्माण करना, जो विधान खराब हैं, उनका संशोधन करना, जो नहीं हैं, उनका निर्माण करना, जिसकी आवश्यकता है, उसकी पूर्ति करना, इसी के लिये लोक-सभा है । अगर कानून के द्वारा कुछ नहीं हो सकता है, तो लोक-सभा की आवश्यकता नहीं रह जायेगी । प्रजातंत्र में लोक-सभा का जो निर्माण हुआ है, उसका तात्पर्य यही निकलता है कि बहुत सी ऐसी बातें हैं, बहुत से ऐसे दोष हैं, जिनका निराकरण विधान के द्वारा ही किया जा सकता है । परन्तु इस संबंध में मैं यह निवेदन करना चाहता हूं कि कुछ लोग विभिन्न समस्याओं के समाधान के बारे में जो विचार कट करते हैं, उनसे भ्रम निर्माण होता है । इसलिये आवश्यकता इस बात की है कि उनको इस विषय में अपने विचार स्पष्ट रूप से प्रकट करने चाहियें । जो लोग यह विधान ला रहे हैं, गो रक्षा के प्रश्न पर वे कहते हैं कि वह तो लोग करें, कानून से गो रक्षा नहीं हो सकेगी । गाय की रक्षा लोगों को करनी चाहिये और हम रक्षा नहीं करेंगे, इस तरह की परस्पर विरोधी बातें जब हम करते हैं, तो इससे भ्रम निर्माण होता है ।मैं मानता हूं कि सभी जो दोष हैं कानून के द्वारा ही निकाले नहीं जा सकते हैं । परन्तु यदि हम कोई कानून बनाते हैं तो वह इस प्रकार का हमें बनाना चाहिये कि किसी भी प्रकार की किसी बुराई की गुंजाइश उसमें न रहे । यदि हम विधान बनाते हैं, तो उसे पूर्ण बनाना चाहिये और उसका कठोरता साथ पालन करना चाहिये और साथ ही साथ पालन कराने के लिये तत्पर रहना चाहिये । अगर ऐसा हुआ तभी कोई बुराई दूर हो सकती है । यदि हमने सीधी नाक न पकड़ करके चक्कर लगा कर नाक को पकड़ने की कोशिश की तो इससे कुछ लाभ नहीं होगा ।

14 hrs.

हम चाहते हैं कि दहेज प्रथा का अन्त हो । लेकिन इसके रास्ते में जो बुराइयां हैं,

उनका भी हमें अन्त करना होगा । सबसे खराबी की बात इस वक्त यह है कि यहां पर ऐसा वायुमंडल पैदा करने की कोशिश की गई है कि नारी कुछ और है और नर कुछ और । मैं पूछना चाहता हूं कि ये नर और नारी आते कहां से हैं। नर और नारी के समागम से ही तो नर और नारी आते हैं। यदि नर न हो तो नारी क्या करेगी और यदि नारी न हो तो नर क्या करेगा । अगर इन दोनों में से एक न हो तो क्या आप ब्रह्मचारियों से इस सृष्टि का संचालन करने को कहेंगे । दोनों के सम्मिलन के कारण ही यह सारी सृष्टि चलती है । यहां न कोई बड़ा है और न कोई छोटा । न पुरुष बड़ा है और न नारी छोटी । दोनों समान हैं। समान स्थान का उद्घोष हमारे ग्रंथों में किया गया है ।

यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवता :

अधिक पुरुषार्थ करके पैसा कमा कर लाने की वजह से नर कहीं नारी पर हावी न हो जाये, इसके प्रति उसको सावधान किया गया है ।

यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः ।
यत्र यास्तु न पूज्यन्ते सर्वाः तत्र अफलाः क्रियाः ।।

मेरे देश का पतन इसीलिये हुआ है और इसीलिए हो रहा है कि इस देश में नारी के प्रति अपमान और तिरस्कार और उसको दास बना कर रखने की प्रवृत्ति उत्पन्न हो गई है । जिस दिन इस देश में नारी के प्रति पूज्य भाव उत्पन्न होगा उस दिन यह डावरी नहीं रहेगी । जब आप अपने घर में गृह लक्ष्मी ला रहे हैं तो पैसा मांगने की क्या आवश्यकता है । जब स्वयं मेरे घर में लक्ष्मी आ रही है तो इसका अर्थ हुआ कि मेरे घर में लक्ष्मी बढ़ेगी । और यदि लक्ष्मी के स्थान पर मैं राक्षसिनी ला रहा हूं, पतिता ला रहा हूं और स्वयं भी यदि मैं पतित हूं, यदि स्वयं भी मैं पापी हूं तो यह डावरी कितने दिन मेरे घर में टिकेगी, इसको सब जानते हैं । यदि मेरी प्रवृत्ति ठीक नहीं है, तो समाज की प्रवृत्ति कैसे ठीक हो सकती है । सभी की प्रवृत्ति ठीक होनी चाहिये और सब में यह भावना आनी चाहिये कि नारी हमारे लिए पूज्य स्थान रखती है, नारी पुरुष के लिए सर्वस्व प्रदान करने वाली है, सब कुछ उसके द्वारा मिलता है । इस तरह की भावना हमारे जो नेता हैं, हमारे जो कार्यकर्ता हैं, उनको उत्पन्न करने की कोशिश करनी चाहिये । हम अंग्रेजों को तो यहां से भगा सकते हैं और डावरी को हम उखाड़ कर फेंक नहीं सकते हैं, क्या कमाल की बात है । अगर ऐसा हम नहीं कर सकते हैं तो क्या हो गया है इस देश को ? जब अंग्रेजों के जमाने में हम बड़े बड़े पापों के खिलाफ लड़ाई लड़ सकते थे तो क्या हम यह नहीं कर सकते हैं ? कानून तो उनके जमाने में यह था कि इस देश में हम बोल भी नहीं सकते हैं । लेकिन इसके होते हुए भी हम ने अंग्रेजी राज को खत्म कर दिया । हम ने उस कानून को और उस कानून के बनाने वालों को यहां से उखाड़ कर फेंक दिया । यदि सभा इस बात पर एक मत हो जाये कि इस प्रथा से हम कष्ट पा रहे हैं, दुख पा रहे हैं, तो यह कुप्रथा एक दिन भी टिक नहीं सकती है। परन्तु समाज में इस प्रकार का वायुमंडल उत्पन्न करने वाले लोग नहीं रहे हैं । यहां पर भी बहस चलती है, बोल बाल कर ही हम मौज मजा लेना चाहते हैं और गम्भीरतापूर्वक किसी चीज को सोचने के लिए ही तैयार नहीं हैं, उस पर चलने के लिए तैयार नहीं हैं, विचार करने के लिए तैयार नहीं हैं और जब हम स्वयं गम्भीर नहीं तो बाहर वाले जो हैं, जो हमारी बात को सुनते हैं, वे भी गम्भीर नहीं हैं, जनता भी गम्भीर नहीं है । वह कहती है कि बनाये जाओ आप कानून और इन कानूनों को बनाने से क्या होगा ? बात उसकी ठीक है । हमने चोरी न करने के बारे में एक कानून बनाया है, पर चोरियां हो रही हैं ।

[पंडित ब्रजनारायण "ब्रजेश"]

हमारा कानून यह है कि डकैतियां नहीं हो सकती हैं लेकिन डकैतियां हो रही हैं । हमने यह भी कहा है कि रिश्वतखोरी नहीं होनी चाहिये, लेकिन रिश्वतखोरी चल रही है, लोग ले दे रहे हैं । डावरी क्या है एक ब्राइवरी ही तो है । ब्राइवरी अगर बन्द नहीं होती है तो डावरी कैसे बन्द हो सकती है । रिश्वतखोरी अगर बन्द नहीं होती तो दहेज कैसे बन्द हो जायेगा । लोगों को गर्ज पड़ती है, और देना पड़ता है और यहां पर उनको गर्ज पड़ेगी तो देना पड़ेगा और कोई पकड़ में नहीं आयेगा । इस वास्ते हम को सब से पहले नैतिक स्तर को, नैतिक धरातल को उठाना पड़ेगा, लोगों में जागृति लानी पड़ेगी और जिस प्रकार हम किसी जमाने में बड़े से बड़ा त्याग करने के लिए तैयार थे देश के उत्थान के लिए, उसी रास्ते पर हमें अब आना पड़ेगा और बड़े से बड़ा त्याग करने के लिए तैयार होना पड़ेगा ।

यह जो डावरी है यह भी एक दिखावा मात्र बन कर रह गई है, एक शो मात्र बन कर रह गई है । यह जो दिखावा है, इसको इस में से निकलना चाहिये । जब कोई इतने हार दे देता है, इतनी अंगूठियां दे देता है, काफी अधिक संख्या में साड़ियां दे देता है, तो लोग कहते हैं कि बड़ा अच्छा विवाह किया है और यदि यह सब कुछ नहीं किया जाता है और केवल लड़की को ही दे दिया जाता है तो मेरे यहां तो यह कहा जाता है कि इंद्र भी कोई नहीं, कल्पवृक्ष भी कोई नहीं, कामधेनु भी कुछ नहीं है ।

शाखाम् ददातु नहि कल्प तरुः स्वकीयाम् ।
वत्साम् ददातु नहि काम दुघत्रि दोत्रीम् ।।
चक्षुः सहस्रं नच वैवतु चक्षुमेकम् ।
धन्यास्तु ते मुपगताः तनुजा ददातु ।।

कल्पतरु से यदि हम उसकी एक शाखा मांगे तो वह नहीं देगा और कामधेनु से यदि उसका वत्स मांगें तो वह भी नहीं देगी, यदि इंद्र से सहस्र नेत्र उसके होते हुए भी एक नेत्र मांगें तो वह अपना नेत्र प्रदान नहीं करेगा । तब वे धन्य हैं जो अपनी तनुजा, आत्मजा दूसरों को प्रदान करते हैं । जब कन्या मिल गई तो हम को किसी दूसरी वस्तु की इच्छा नहीं होनी चाहिये । लेकिन हम में पाप वृत्ति जागृत हो गई है, दिखावा भी आ गया है । कितनी दौलत बंटती है, कितनी तस्वीरें निकलती हैं, कितने मेहमान पीछे चलते हैं, कितने ढोल पिटते हैं, इन सब चीजों पर ही हमारा ध्यान जाता है । मेरी समझ में नहीं आता है कि क्यों यह सारा दिखावा हो रहा है । देश में लोग भूखे मर रहे हैं लेकिन यहां हजार हजार और पांच पांच सौ आदमी पीछे चलते हैं और इतना लम्बा चौड़ा शो किया जाता है । यह सब कुछ क्यों होती है ? यह सब कुछ इसलिए होता है कि हम में देश भक्ति की भावना नहीं है ।

यह जो बिल आया है इस में एक स्पष्टीकरण किया गया है । इसके बारे में मेरे मित्र भार्गव जी ने कहा है कि यह इस बिल का प्राण है मगर मैं कहता हूं कि इससे यह बिल निष्प्राण हो गया है । मुझे कोई नुक्सान नहीं है । मेरे जैसे आदमियों को शादियों में पैसा काफी आ जाता है । मिनिस्ट्रों को भी इससे कोई नुकसान नहीं है, उनको भी फायदा हो सकता है । हम दोनों को फायदा है । कहीं जब विवाह होता है तो पंडित जी महाराज वहां पधारते हैं और शादी सम्पन्न करवाते हैं और सोना, चांदी, पैसा जो कुछ भी मिलता है, ले कर चले आते हैं और उससे उनका काम चल जाता है । इस वास्ते मैं क्यों इसका विरोध करूं ? लेकिन सच्चाई तो यह है कि यह सब दिखावा है, शो है । शो क्या होता है । अपना काम निकालने के लिए कुछ भक्तों की ओर से भेंट दे दिया जाता है शादी के मौके पर तो यह सोच लिया जाता है कि कल मिनिस्टर से काम पड़ेगा तो वह निकल सकता है । लड़की की शादी होगी और मिनिस्टर साहब को उस शादी में दो हजार रुपया दे दिया जायेगा तो

नाम तो लिखा ही जायेगा कि दो हजार रुपया शादी में आया था और बाद में काम निकलवाने की जरूरत पड़ी तो वह निकल ही जायेगा ।

इस वास्ते मैं निवेदन करना चाहता हूं कि इसको आप बन्द करना चाहते है तो पूरी तरह से बन्द कर दीजिये । विवाह के समय पैसा नहीं आयेगा कुछ नहीं आयेगा । केवल लड़का और लड़की रहेंगे, दूसरा कोई नहीं होगा । लड़के साथ लड़की जायेगी और कोई नहीं । आप कह सकते हैं यह सम्भव नहीं है । लेकिन मैं कहता हूं कि यह चीज होती भी रही है ।

विष्णु स्वरूपणे वराय लक्ष्मी स्वरूपिणीं इमाम् कन्याम् तुभ्यमहम संप्रदवैत् ।

यह संकल्प है ।

श्री राम सेवक यादव (बाराबंकी) : आपने लड़की की शादी में कितना पैसा दिया ।

पंडित ब्रजनारायण "ब्रजेश" : अभी वह छोटी है, जब बड़ी होगी, तब बात करूंगा । लड़के के विवाह में कुछ मांगा नहीं ।

मैं निवेदन करना चाहता हूं कि जबकि कन्या को विष्णु रूप मानते हैं, कन्या को लक्ष्मी स्वरूप मानते हैं और उसके चलते अगर इस प्रकार के दोष आ गये हैं तो उन दोषों को निकालने के लिये कानून का सहारा लेना परम आवश्यक है, इससे हवा तो फैलेगी, लोग डरेंगे तो कि अगर उन्होंने इसके खिलाफ कुछ किया तो उनको सजा हो जायेगी । जो ईमानदारी से इसको रोकना चाहते हैं, उनको इससे प्रोत्साहन तो मिलेगा । कहीं ऐसा न हो कि सरकार केवल कानून बना कर बैठ जाये और पुलिस वाले जा कर पैसा खाते जायें और अगर पैसा नहीं मिलता है तो पूछें ही नहीं । जैसे और पाप कानूनों के होते चल रहे हैं, ठीक उसी प्रकार के ये पाप इसके बाद भी ज्यों के त्यों न चलते रहें, इसकी आपको रोकथाम करनी होगी । यह सारी की सारी चीज जो लीट पलट कर आ गई है कि पैसा भी दे सकते हैं, आभूषण भी दे सकते हैं, सब कुछ दे सकते हैं फिर डावरी क्या रह गई । अगर मैं खुद नहीं दे सकता हूं तो मैं अपने साले से कह दूंगा कि तुम दे दो, पैसा मैं दे रहा हूं । लड़के वाला कह सकता है कि मैंने किताब कानून की देख ली है और आप नहीं दे सकते हैं, लेकिन आपके साले साहब तो दे सकते हैं, उनसे दिलवा दीजिये । इस तरह की चीज को सरकार कैसे रोकेगी ? दो हजार के हार साले साहब बनवा कर ले आयेंगे, नाम उनका होगा और दाम किसी और के लगेंगे और यह सारी चीज चलती रहेगी । लौट पलट पर वही का वही चलता रहेगा । डावरी को रहना ही नहीं चाहिये और इतना ही नहीं बल्कि दिखावा उस में से बिल्कुल जाना चाहिये, पाप की जड़ का ही नाश किया जाना चाहिये । जब तक इस प्रकार का इस में संशोधन नहीं होगा, तब तक कोई लाभ नहीं होगा । जब तक यह स्पष्टीकरण नहीं निकलेगा, तब तक यह बिल निष्प्राण रहेगा ।

डारेक्टली और इनडायरेक्टली का जो झगड़ा है, उसमें कोई अन्तर नहीं है । कौन किस की शिकायत करने जाता है, कौन किस से लड़ने . . .

उपाध्यक्ष महोदय : आप झगड़े में ही न पड़ें ।

पंडित ब्रजनारायण "ब्रजेश" : कब से मैं बोलने की प्रतीक्षा कर रहा था और दस मिनट की जो सीमा है, वह भी मुझ से ही शुरू हुई लेकिन फिर भी बोलने का जो अवसर प्रदान किया गया, उसके लिए मैं आपको धन्यवाद देता हूं और इतना ही निवेदन करना चाहता हूं कि यह जो पाप इस देश में आया है, यह जाना अवश्य चाहिये, इससे जनता और समाज दोनों जर्जरीभूत हो रहे हैं, देश को बड़ा कष्ट हो रहा है । परन्तु इस में समाज को

[पंडित ब्रजनारायण "ब्रजेश"]

पुनश्च पाप करने का अवसर नहीं देना चाहिये, और जो इस को पास करने वाले हैं, जो इस विधेयक पर वोट देने वाले लोग हैं, उन को स्वयम् भी सक्रिय रूप से काम करने की आवश्यकता पड़ेगी, तभी हम इस प्रकार की बुराइयों से बच सकेंगे ।

इन शब्दों के साथ म संशोधनों के साथ इस विधेयक का समर्थन करता हूं और अपना स्थान ग्रहण करता हूं ।

Shri Bhupesh Gupta: Mr. Deputy-Speaker, Sir, we are here in a joint session to resolve a controversy which has arisen between the two Houses of Parliament. Constitutionally speaking, it is a controversy between the two Houses of Parliament, but clearly it is a conflict between those who stand for social reform on the one hand and those who want to oppose such reforms or want to go very slow. Therefore here we are confronted with the problem of resolving a controversy which relates to social reform, and we shall discuss the constitutional and other matters later.

We have been landed into this situation because the mighty Government refused to give any lead in the Lok Sabha or in the Rajya Sabha. You have seen, and many of us have seen, how the Law Minister faultered in every single step that he took in this matter, permitted himself to be tossed about between the supporters of a particular position and the opponents of another position. He looked as if he was, as I said before, an aircraft whose pilot has lost its bearings, a ship whose captain did not know how to pilot its course. Such is how the Law Minister behaved and that is why we have to take charge of the situation here.

As we noticed him, coming from Lok Sabha to Rajya Sabha and going back there—I do not mean personally him and I mean the Government—I felt we are witnessing a man under the influence of intoxication trying to return home; and as you know, such a man takes the right course but wobbles at every step; sometimes he seems toppling over; sometimes he stops and does not know what to do. That is how the Law Ministry advanced in this matter. Now I think we have to lift them by the hand and take them to the destination.

Here again you find the vacillation expressed somewhat crudely but I think, in a subtle manner in the proviso to clause 4 of the Bill. I am glad that they are gradually overcoming their indecision and vacillation, but I think that even so, they suffer from it. In this connection, I should like to point out that we have got positions in this matter taken by the two Houses of Parliament. I approach this matter in no spirit of competition. I think we can resolve this controversy in a spirit of give and take. I suggest that what is good in the proposals of the Lok Sabha, we the Members of the Rajya Sabha should take; and similarly what is good in the proposals of the Rajya Sabha, I hope the Members of the Lok Sabha will take. That is how we can finalise the Bill in a manner where no House should feel defeated and only the cause will win. These are my preliminary suggestions.

Here again, a few things I think have to be settled. I heard my hon. friend, Shri Tyagi, speaking with his eloquence, and he drew upon the experience of his own marriage and certain other marriages he had in mind. I did not know exactly what was his role in this case as far as the dowry was concerned. Was he the giver or the taker? I would like to know that. From the manner in which he spoke I got the impression as if he had been on the taking side of the dowry. Well, that is for him to clarify, and I do not mean anything personally. But here is a problem which has to be faced dispassionately.

Much is said about love and affection. I wish we talk about it at all

times of our life. Love and affection is something which we all cherish. I for one do not like any law to be passed which comes in the way of the natural flow of love and affection. Let there be no mistake about it. With the permission of loving and affectionate parents like Shri Tyagi and others, may I say that I would like to have a little more love and affection on the part of the father when it comes to the question of the daughter. My complaint is that if it is a question of the daughter this natural love and affection seems to dry up time and again, and if that is not the experience of the parents here, I am prepared to stand corrected. But I would ask the parents, at least the loving fathers, to remember sometimes how they in the material affairs, dealt with their daughters and how they dealt with their sons.

Shri Tyagi: It is difficult for a bachelor to appreciate this.

Shri Bhupesh Gupta: Certainly, I shall not like a father-in-law to be like Shri Tyagi! Therefore, let us not talk about love and affection. Love and affection is not something which must necessarily take a tangible form in the shape of gold, cash, cheque and so on, and that too at the time of marriage. I should have thought that affectionate and loving parents would continue to love their daughters from the time of their birth and during their entire term of life—before marriage, during marriage and after marriage. What is the experience? I would like to know which is that fool of a father who earns Rs. 500 a month and gives Rs. 5,000 at the time of marriage. You will say it is voluntarily given. I think we are a little more intelligent to understand how things are given voluntarily in a situation and not given voluntarily in a situation. Therefore, let us not kid ourselves with such ideas. Love and affection should be there and this Bill does not come in the way at all. Shri A. K. Sen, the Law Minister, might give his enormous wealth to his daughter, as a token of love and affection, and he can acquire more wealth and give it to the daughter. Nobody will touch him. But if that becomes a financial deal, a deal between Shri Sen and Shri Tyagi, for instance, and given in consideration for marriage, I would ask the law to step in and interfere with that kind of fictitious love and affection which is no love and affection at all but a commercial deal. Therefore, let us not talk about it.

Then, much has been said about social sanction. But before that, I would like to point out that much has been said about harassment. What about the tears of the girls of our society which had been rolling down the ages—tears, of sorrow and suffering in the families of our countrymen? Are we not to take account of that—the actual facts of life,—or are we to brush them aside in the name of certain possible theoretical abuses of a particular Act? I would like the Law Minister to explain. Is it our experience that measures such as these have been abused in order to persecute and harass the people or, is it our experience that such measures have been allowed to be bypassed, like many other laws of the Government, and these social evils continued? If it is a case of evasion, then we have to be harsh; we have to be strict and we have to make things enforcible. If it is a case of harassment, then I can understand caution in this matter. But we have got the experience of the Sharda Act and various other Acts in our civil life. What do we see? We see it is not harassment that comes really in the forefront; it is the evasion that characterises such things. That is how we should view this matter in realism

Sentiments have been expressed. I welcome such good sentiments. At the same time, we are meeting here not as a femininist association of the early 20th century or a women's association of modern times or as some retired social reformers meeting in an evening club. We are meeting here in the supreme organ of the State, *i.e.*, in Parliament, and we want

[Shri Bhupesh Gupta]

to pass this measure not for merely spelling out such good sentiments, but for creating sanctions which will help the country to eradicate this evil. That is the position.

Our task is two-fold. Are we discharging it? That is the question. As far as sentiments are concerned, there is no quarrel about it. As far as the question of enforcing this measure is concerned, it is important that we pay attention to it. Let it not be said that the Parliament met in joint session to pass a law in such a manner which threw open the gates of evasion. The explanation, as I shall come to it later, is an invitation to evasion. It is telling the people, "Evade the law in this manner". That is why I am opposed to this explanation being retained. As some people suggested, I accept the wise suggestion of the Lok Sabha that the explanation should be deleted.

Here somebody is saying, "What about gifts at the time of marriage?" Give by all means, but if it is consideration for marriage, then you are in trouble. People will ask, "How did you find it?" The law provides that consideration has to be proved in a court of law or a *prima facie* case is to be established before you can attract the provisions of this Act. The onus of proof will fall on whom? Not on anybody, but on him who makes the complaint. He has to prove it. In the civil law of contract, we know how difficult it is to prove consideration, unless it is written, unless there is something specific in this matter. Therefore, the burden will fall on the person who makes the complaint. He would be hard put to proving this thing. Why add to his difficulties? If it is a question of natural gift out of love and affection, it will be difficult to prove consideration. There must be some proof. The Law Minister should not create the impression as if something is given and automatically the court will take it that it has been given in consideration for the marriage at the time of the marriage.

In the explanation, cash, jewellery and other articles are mentioned. What else is left in the world? Do people give Shri Jawaharlal Nehru's *Autobiography* or May's *Parliamentary Practice* or proceedings of Parliament at the time of marriage? They give either cash, jewellery or other articles which are negotiable. You can sell them, get money or utilise them otherwise. They are material articles. Therefore, everything is covered. It is said here that these things can be given. What does it mean? You are making a law and telling the people, "Here I have made a provision. Under the explanation, you can give whatever you like. Money as much as you like and other properties also you can give". About apparel, fashionable ladies can tell us how much a saree costs; I do not know. But I can well understand the other articles. You can cover a good-looking bride with ornaments and say, you have given it on account of love and affection. But suppose somebody comes and tells, "You earn Rs. 250 or Rs. 500 per month; you could not arrange for your son's education; you could not pay the fees for the children when they were in school. You could not look after them when they were ill and provide them medical care. Am I to understand that suddenly your love and affection became so overflowing that you have adorned your daughter with so much gold?" Intelligent men will smell something else; they will be on the look-out for dowry. Would it not be so?

Nobody would give dowry after this Act is passed writing on the marriage present, "Here I so and so have given it as a gift out of love and affection". They might say this thing, but nobody will say, "I am giving this in consideration for the marriage". Nobody will say that. That is the position. Therefore, do not have it that way. We know what will happen. It will be clear-cut evasion.

A proviso has been brought in. What for? It is a non-cognizable

offence. Secondly, I can go to the court, but even so, it will not be cognizable. I have to prove something *prima facie*. Sanction has to be obtained from whom? From some special officers and so on. There are five lakhs of villages in India. How many officers we have got? How many do you propose to create? Marriages take place very frequently. Thousands of marriages take place. If you have so many officers, look after the income-tax evasion. Go after them, rather than waste your breath and energy over this matter. That is my suggestion. Here you are just making it more difficult.

If somebody wants to prove this thing, see what difficulty he would be placed in. When things have really taken place, an honest and *bona fide* person has to go to the officer. He will be looking round for the officer; he may or may not find one. By that time, the bridegroom or his parents might have not only packed off the gold or whatever it is, but also spent all of it. Such will be the situation. Is this the way of enacting a social legislation?

Somebody says 'enlightenment'. Yes; I know enlightenment is necessary to eradicate such an evil. The task of law in every society is to bring about the enlightenment of the people on the one hand and create the necessary sanctions and integrate the two into a system, so that such an evil is eliminated in a short space of time. Is this the approach here? No; that is not the approach.

Therefore, I say that Government have behaved very haltingly in this matter. If they have not done so, we would have passed it in the normal course as we pass other measures. Therefore, I would request you to reject the proviso, because this proviso nullifies the whole thing. The Law Minister thinks he is very intelligent and subtle....

Shri A. K. Sen: I have no such pretentions.

Shri Bhupesh Gupta: I do not know why you are upset over this dowry Bill and why you are so vacillating over this simple proposition. The proviso should not be there at all.

I, therefore, suggest that the Lok Sabha's other suggestion that clause 4 should remain as formulated by the Lok Sabha itself is something very good and we should accept it. Finally, I would like to say that we are meeting here to pass an important and significant legislation. The significance of it lies not in the manner in which it is going to be enforced today. We have no illusion about it. But here we express the most powerful determined voice of the country through these representatives, so that there is an all-sided attack, from the side of the law, from the side of the State, from the side of the social organisations and from the side of public spirited men and women against the monstrous institution that is called the dowry system. In the mid-twenties, it is a profound matter that we are debating such a thing and I think we will pass this measure, deleting the proviso and accepting what is good from both Houses.

श्रीमती कृष्णा मेहता (जम्मू तथा काश्मीर) : उपाध्यक्ष महोदय, मैं इस दहेज निषेधक बिल का स्वागत करती हूं । जब यह सदन में पहले प्रस्तुत हुआ था उस समय भी मैंने इसका स्वागत किया था इसमें जो कुछ भी त्रुटियां थीं लेकिन इसमें जनता को जाग्रत करने का एक साधन था ।

इस विधेयक के कारण ही आज यह ज्वाइंट सैशन चल रहा है । यह हिन्दुस्तान के इतिहास में भारत के लिए और जनता के लिए एक नई घटना है ।

कहने को तो कह सकते हैं कि यह एक मामूली सी बात थी, लेकिन वास्तव में यह एक मामूली बात नहीं है । यह एक बड़ी बात है

[श्रीमती कृष्णा मेहता]

जिसमें स्त्री जाति का मान छिपा हुआ है क्योंकि यह स्त्री जाति के लिए सब से बड़ी इज्जत की बात थी। इसका मतलब यह नहीं है कि इसका पुरुषों के साथ कोई सम्बन्ध नहीं है। दहेज का भार ज्यादातर पुरुष जाति पर ही पड़ता है। लड़की के पिता को लड़की के हाथ पीले करने के लिए दहेज जैसे भी हो जुटाना पड़ता है। इस दहेज के ही अभिशाप के कारण हम देखते हैं कि लड़की के जन्म लेते ही उसके माता पिता के मुंह पर उदासी सी छा जाती है। लड़की कितनी ही गुणवती हो, रूपवती हो और पढ़ी लिखी हो लेकिन जो एक खुशी उसके माता पिता के दिल में और अन्य परिवार वालों में होनी चाहिए, वह नहीं रहती है। उसके माता पिता और परिवार वालों में उदासी का भाव आ जाता है और उनके सिर पर यह चिंता सवार रहती है दहेज की। आज हमारे देश और समाज की अवस्था ऐसी है जिसमें लड़की के शील, गुण और रूप आदि को न देख कर सिर्फ यह देखा जाता है कि उसके साथ दहेज कितना आयेगा, नकदी कितनी लड़की के बाप से मिलेगी। जब ऐसी बुराई समाज में मौजूद हो तो एक जनतंत्री सरकार का यह कर्त्तव्य हो जाता है कि वह उस कुरीति को दूर करने के लिए कदम उठाये, कोई रास्ता निकाले और आवश्यक ले जस्लेशन लाये। सरकार इस दृष्टि से जो यह विधेयक लायी है वह स्वागत योग्य है क्योंकि उसके द्वारा समाज में से इस दहेज की कुप्रथा को दूर करने और खत्म करने का प्रयतन किया जा रहा है। लेकिन इसके साथ ही सरकार को इस बात की भी सावधानी और सतर्कता बर्तनी होगी कि जिस उद्देश्य से उसने यह विधेयक बनाया है उससे कहीं जनता के कष्ट दूर होने के बजाय बढ़ न जायें। विधेयक को पास करते समय इस बात का ख्याल रक्खा जाये कि इससे जनता की कठिनाइयां कहीं घटने और खत्म होने के बजाये बढ़ न जायें। विधेयक ऐसा होना चाहिए ताकि जब भी कोई बुरा काम करें उसे उसको करने में झिझक हो। विधेयक उसे ऐसा काम करने से रोके जिसके लिए उसे बाद में अपना सिर देश, समाज और सरकार के आगे शर्म से झुकाना पड़े।

श्रीमन, साथ ही इस बात का ध्यान रक्खा जाना चाहिए कि विधेयक ऐसा बनाया जाय जिससे चोरी के दरवाजे न खुल जायें। जाहिर है कि अगर हम ऐसी बातें रखते हैं जिनसे असानियों के बदले कठिनाइयां आ जाती हैं तो चारों तरफ चोरी और झूठ के दरवाजे खुल जाते हैं और उनके कारण हमारी नैतिकता पर भी बुरा असर पड़ता है।

जिस रूप में अब यह विधेयक आया है उसका मैं पूरी तौर से समर्थन करती हूं और सरकार को धन्यवाद देती हूं कि वह इस प्रकार का एक बिल लाई जिससे यह दहेज की कुप्रथा को समाप्त करने और रोकने की कोशिश की जा रही है। दहेज के कारण स्त्री जाति को बहुत ही यातनाएं सहनी पड़ती रही हैं और हमारी लड़कियों में भले ही कितने गुण क्यों न हों, भले ही रूपवान और पढ़ी लिखी क्यों न हों लेकिन लड़कियों के गुण और रूप आदि को न देख कर यही देखा जाता रहा है कि लड़की का बाप दहेज में कितना दे सकता है। दहेज के कारण हमारी लड़कियों को बहुत ही अपमानित होना पड़ता है और यह कुप्रथा हमारे देश और समाज के लिए एक अभिशाप बन कर रही है।

क्लाज ४ में जो नया संशोधन हुआ है उसका मैं पूरी तौर से समर्थन करती हूं। उससे किसी तरह भी किसी को झूठा कष्ट नहीं दिया जायगा। नये संशोधन के अनुसार राज्य सरकार से इजाजत लेनी पड़ेगी और मेरा विश्वास है कि उसके कारण बहुत सी बुराइयां दूर हो जायेंगी और झूठी शिकायतें कम होंगी। मैं आपको बतलाना चाहती हूं कि हमारी जम्मू तथा काश्मीर विधान सभा में एक दहेज निषेध बिल पास किया गया था और वह कानून के रूप में हमारे राज्य में

लागू हुआ । उसके लागू होते ही अभी दो तीन ही महीने की बात है कि एक घटना घटी और वह इस प्रकार से कि एक लड़की वाला अपनी लड़की का सम्बन्ध एक किसी लड़के के साथ करना चाहता था लेकिन लड़के ने उस रिश्ते को मंजूर नहीं किया क्योंकि वह यह नहीं चाहता था कि वहां पर उसकी शादी हो । लड़के ने दूसरी जगह अपना विवाह कर लिया । अब पहले लड़की वाले ने उस लड़के और लड़के के पिता दोनों पर अदालत में जाकर दावा दायर कर दिया कि उससे दहेज लिया गया है ? अब इस तरह की समाज में झूठी बातें यदि सामने आती हैं, खाली बदला लेने की गरज से और दुश्मनी के कारण अगर इस तरह की झूठी शिकायतें सामने आती हैं तो यह कोई अच्छी चीज नहीं होगी । इसका समाज पर बुरा प्रभाव पड़ेगा और हमारे लोगों का नैतिक स्तर गिरेगा जो कि वांछनीय नहीं है ।

क्लाज २ में दहेज प्रत्यक्ष या अप्रत्यक्ष से देंगे, यह संशोधन किया है कि शब्द "निवेन" द स्वीकार किया जाये । वह संशोधन ठीक है क्योंकि वह दहेज लिये जाने के विरुद्ध पूरी रोक लगाने की एक चेष्टा है । दहेज किसी तरह से भी प्रत्यक्ष या अप्रत्यक्ष दिया जाना बंद होना चाहिए । हमें विधेयक को इस रूप में पास करना चाहिए ताकि झूठ और चोरी के दरवाजे न खुल जायें । इसलिए हमें विचार करना है और सोच समझ कर विधेयक को इस रूप में पास करना है जिससे लोग झूठ और चोरी का आश्रय न लें वरना होने यह वाला है कि दहेज मिटेगी नहीं दहेज देने वाले देंगे और लेने वाले लेंगे लेकिन एक ऐसी बात हो जायेगी कि हर एक के सामने यह कहना पड़ेगा कि मैंने कुछ नहीं लिया और मैंने कुछ नहीं दिया । इसलिए मैं यह चाहती हूं कि सरकार को और सब माननीय सदस्यों को इस बारे में गम्भीरता से विचार करना चाहिए कि जहां हम सब इस बात के लिए उत्सुक हैं कि यह दहेज प्रथा का कलंक हमारे देश और समाज के माथे पर से हट जाय वहां यह भी ध्यान रखना है कि इस विधेयक को ऐसा जटिल न बना दिया जाय जिससे लोगों का नैतिक अधपतन हो ।

यह बड़े हर्ष का विषय है कि सरकार इस कुप्रथा और कलंक को समाप्त करने के हेतु यह विधेयक लाई है और आगे चल कर कुछ त्रुटियां और कमियां यदि इसमें पाई जायें तो उनको दृष्टि में रख कर संशोधन भी किये जा सकते हैं । मुझे उम्मीद है कि यह विधेयक जिस रूप में एक्सप्लेनेशन के साथ पेश है वह सही दिशा में एक कदम है और हमारी लड़कियों को जो कष्ट उठाने पड़ते हैं उनको इससे राहत मिलेगी । मैं इस विधेयक का स्वागत करती हूं और आपको धन्यवाद देती हूं कि आपने मुझे बोलने का समय दिया ।

Shri Goray (Poona): Mr. Deputy-Speaker, Sir, it is a measure of the stubbornness of our social institutions that the first Joint Session of the two Houses of Parliament had to meet to discuss and debate a very simple Bill seeking to prohibit the dowry system. I have been listening to the debate for the last two days, and I have heard many arguments put forward by people who want that the system should discontinue and people who in principle agreed that this system should discontinue but who had their doubts whether such a legislation would have the desired effect.

I was a little sorry when I heard eminent colleagues of mine coming here and saying that a social system of this sort cannot be eradicated by legislation. Some of them even went to the extent of doubting whether a social legislation of this nature would do any good at all. It was, Sir, surprising and painful, because I thought that this was the body which should have been the last to doubt the efficacy of social legislation. For the last century or so we have been agitating against the evil systems in our society of which dowry system is undoubtedl one, and now that we are

[Shri Goray]

clothed with all authority to pass legislation we are now doubting whether we should pass a legislation of this sort or not.

It is, therefore, painful and surprising that this august House, which has a long tradition behind it and which claims to be the direct descendant of the great pillars of thought and action in this country, should have such a doubting frame of mind. I know that legislation has after all, its own limitations. I know that after having passed this legislation, we are not going to do away with the dowry system as if by a migic wand. But it would certainly strengthen the hands of social reformers and social workers, if they really wanted to take advantage of it.

I was surprised that my veteran leader, Acharya Kripalani, stated here after all, in our society it is the woman who is dominating and men like poor sheep, are being guided by women, whether in this House or outside. I should say that he painted a very romantic picture. I would say that everywhere in India not only today but from times immeomorial we have never treated our womenfolk with the respect they deserve. An hon. lady Member from Rajya Sabha, Shrimati Pushpalata Das, waxed eloquent over the great names in our Puranas and talked about Draupati and Seeta and other eminent women. But how were they treated. If we are not really sentimental, I would really urge all of you to call a spade a spade. We know how Draupati was treated. In the house of Kauravas she had to plead for protection. She had to ask Pandavas her husbands: am I a saleable commodity that you are saying that I should go and become a *dasi* of the Kauravas? Again, we know what happened to Seeta. It was not only once but twice that she was asked to undergo the ordeal of fire to prove that she had not been unfaithful to her husband. And it was when she was asked to perform that ordeal a second time she said that she is not going to do it. Then, the legend tells us, she was swallowed by mother earth.

So, from that time right up to this time, you will find that the fate of women in the society is the fate of the discarded, the neglected, the down trodden. Let us not make any mistake about it. And the dowry system is the one system which shows that we are treating our boys and grils as if they are commodities in the market to be auctioned. It is nothing else but auction.

Now after so many years we have come out with this legislation. After independence, after we have achieved freedom, we have now come forward with legislation for our own society. My hon. friend, Shri Khadilkar, quoted Ranade and others. I think he is reading history entirely the wrong way. At that time, that is, 60 or 70 years back, the situation was not ripe and we had not had the power even to persuade the people. It was in a way the beginning of social consciousness. Now 60 long years have passed. We had such leaders as Lok Manya Tilak, Mahatma Gandhi, Ram Mohan Roy in Bengal and Karve in Maharashtra. After all these centuries of struggle and fight, if today we come with the same plea that legislation is not going to do anything, I do not know what we are sitting here for. We must have the will to legislate; we must have the strength to carry through the legislation.

My veteran colleague, Shri Sapru, asked us: what, after all came out of the Sharda Act? The same fate awaits this legislation also he said. I may say that there was nothing wrong with the Sharda Act; the mistake was on our side that we did not try to take advantage of the Sharda Act. Our social reformers, our political workers, fought shy of this Act and we did not try to take the fullest advantage of the legislation that was available to us. It may happen to

this legislation also if we do not take advantage of this.

I would like to know what has happened to our reforming zeal, what has happened to our crusading spirit, which was instilled into us by people like Mahatma Gandhi, who wanted that social revolution should go hand in hand with political or economic revolution? We are ready for an economic revolution but when it comes to social revolution we fight shy. What has happened? It is a matter where we should search our heart and we should try to find out why we have become so weak. If we really go about the country in the right spirit, if we try to take advantage of this legislation, I am quite sure that during the next 10 or 15 years it will be possible to do away entirely with this custom of dowry. But it is there that we seem to lack faith and we seem to have lost our hopes. We do not want to disturb the society. Perhaps it is due to the fact that we come here through the vote of the people and we fight shy to touch people on the raw. We do not want to go to the people and disturb them out of their torpor and their social inertia. It is that social inerita which should be done away with.

Therefore, I will plead with all the earnestness that all the hon. Members should agree to pass this piece of leglisation unanimously. What is it that we are trying to do with this piece of legislation The Rajya Sabha and Lok Sabha have differed on two or three small points. But they are very crucial points. If we allow these point to be overlooked, if we try to slur over these issues, you will find that we are leaving in this legislation a lacuna through which the anti-social elements or the obscurantist elements will be able to take advanage, to perpetuate this evil.

Then, there is the explanation. What does this explanation mean? This explanation gives the right to give all sorts of presents, at the same time, not calling it dowry. So, you introduce dowry through the back-door. Therefore, I will say that you must drop that explanation. Otherwise it will only create lacunae in the legislation and thereby the purpose for which this particular legislation is being enacted will be defeated. Therefore, I will plead in all seriousness that we must do away with this particular explanation. Then, the words "directly and indirectly" should also be introduced.

Then I would come to the most crucial part of it, the proviso which was introduced by way of an amendment by my hon. friend, Shri Hajarnavis. If we are really serious about this legislation, then we must see to it that we cut the red tape as much as possible. That proviso introduces a new element. It says that the State Government should do this and that. If you want to empower the State Governments to do things like that, then some of the State Governments may take months and years over it. Then, it will not be possible for an ordinary man to move the State Governments.

Therefore, I would say that if you are really sincere about introducing this legislation—if you are not, then drop that legislation althogether; I would agree with those people who say that such legislation is no good at all and should not be introduced—if you really want legislation of this type, not because so many women have spoken in favour of it but because you think that the dowry system has been a stigma on society which reduces our boys and girls to a status of commodities, if you really think like that, then try to make this legislation as fool-proof as possible, and do not leave any lacunae or loopholes in the legislation. Therefore, so far as the amendment is concerned, I would say that you should try to see to it that the previous sanction of the State Government is done away with. You can empower first class or second-class magistrates. I would myself suggest that it should be made a cognisable offence. Now say: try to

[Shri Goray]

make it as easy as possible for the comon man to approach the Government authorities to make the whcels of this legislation move.

Therefore I would once again wholeheartedly support this Bill, not in its present form but with the amendments that the Rajya Sabha has introduced and also with the amendment to what Shri Hajarnavis has proposed, the notice of which I have given. Let us try to make this legislation as foolproof as possible.

श्रीमती शारदा भार्गव (राजस्थान) : आज का दिन एक मुबारिक दिन है जब कि हम समाज के माथे पर लगा एक कलंक का टीका धोने जा रहा है । यह डावरी सिस्टम एक अभिशाप के रूप में हमारे समाज में प्रचलित रहा है । इसको आज हम खत्म करने जा रहे हैं । इस विधेयक को पास कर देने के बाद एक बहुत बड़े दोष को हम समाज में से निकाल फेकेंगे । यह प्रथा लड़कियों की शादियों के रास्ते में बहुत बाधक रही है और इस बाधा को हम दूर करने जा रहे हैं । इस वास्ते आज का दिन एक बहुत ही महत्वपूर्ण दिन माना जाएगा । इसमें कोई दो राये नहीं है कि दहेज प्रथा बहुत बुरी प्रथा है और समाज के लिए बड़े सिरदर्द का कारण रही है ।

कुछ माननीय सदस्यों ने यह कहा है कि चाइल्ड मैरेज के बारे में जो कानून पास हुआ है वह बेकार साबित हुआ है । मैं मानती हूं कि उस कानून से जितना लाभ होना चाहिये था, नहीं हुआ है । मगर जब यह कहा जाता है कि चाइल्ड मैरेज के बारे में जो कानून है, वह बिल्कुल ही बेकार साबित हुआ है, तो मैं इससे सहमत नहीं हो सकती वैसे तो कोई भी सामाजिक कुप्रथा केवल कानून बना देने से बन्द नहीं हो सकती है । लेकिन अगर यह कहा जाता है कि कानून पास ही नहीं किया जाना चाहिये तो यह भी गलत बात होगी । कानून पास करके भी और समाज में इस तरह की शिक्षा दे कर भी कि जिस चीज के बारे में कानून पास किया गया है वह बुरी है और उसका अन्त होना चाहिये । हमें अपने काम में आगे बढ़ाना चाहिये । यहां पर यह भी कहा गया कि दहेज प्रथा का अन्त करने के लिये सोशल वर्कर्ज जाकर लोगों को समझायें, सत्याग्रह करें तथा दूसरे उपायों का सहारा लें । यह सब कुछ हो सकता है । मगर सब से बड़ी बात यह है कि वे युवक हैं तथा जिनकी शादियां होने वाली हैं, वे अगर मजबूती से इस चीज को हाथ में ले लें, तो इस प्रथा को बहुत जल्दी और बहुत शीघ्रता के साथ समाप्त किया जा सकता है ।

हमारे भाइयों ने यह भी कहा है कि शादी के समय सास और ननद बहुत ज्यादा दहेज मांगती हैं और चाहती हैं कि दहेज आए । इस बात को मैं कुछ हद तक मान लेती हूं लेकिन सास और ननद के अतिरिक्त ससुर और ज्येष्ठ भी बहुत हद तक दोषी हैं और वे भी चाहते हैं कि दहेज आए । ससुर कहने को तो कहता है कि मैं इसको बहुत बुरा मानता हूं लेकिन क्या बतायें सास ही दहेज मांगती हैं इसलिये दहेज लेना पड़ता है । मैं समझती हूं कि इस तरह की झूठी बातें करने से कोई लाभ नहीं है । दिल में तो वे भी यह चाहते हैं कि दहेज मिल जाए तो बहुत अच्छा हो । मैं कहती हूं कि अगर पुरुष वर्ग यह कह दे कि दहेज नहीं लेना है तो वह कभी नहीं लिया जायेगा । औरतों के ऊपर इसका दोष डालना और इस तरह कहना कि वे ही चाहती हैं इसलिये लेना पड़ रहा है, बहानेबाजी है । इस वास्ते मैं समझती हूं कि कानून द्वारा इसको बन्द करना बहुत जरूरी है ।

दूसरी बात मैं यह कहना चाहती हूं कि अब जबकि हम इस बिल को सम्मिलित

सत्र में पास करने जा रहे हैं तो हमें इस बात को भूल जाना चाहिये कि लोक-सभा ने क्या पास किया था और राज्य-सभा ने क्या पास किया था । हमें केवल इसी चीज को ध्यान में रख कर अपनी राय जाहिर करनी चाहिये कि कौन से क्लाज या कौन से संशोधन ज्यादा अच्छे हैं । अगर राज्य-सभा के माननीय सदस्यों को लोक-सभा के द्वारा स्वीकृत संशोधन ज्यादा अच्छे लगें तो उन्हें उनको स्वीकार कर लेना चाहिये और अगर लोक-सभा के माननीय सदस्यों को राज्य-सभा के माननीय सदस्यों के संशोधन ज्यादा अच्छे लगें तो उनको उन्हें मान लेना चाहिये । हमें केवल यही ध्यान में रखना चाहिये कि कौन से संशोधन ज्यादा उपयोगी हैं । यह बात नहीं होनी चाहिये कि जो कुछ हमारे हाउस ने पास किया है वही होना चाहिये । हमें चाहिये कि जो चीज इस कुप्रथा को दूर करने में अधिक सहायक होती हो, उसको हम स्वीकार कर लें ।

यहां पर डायरेक्टली और इनडायरेक्टली का संशोधन आया है । मैं इसका हृदय से समर्थन करती हूं । दहेज देना बहुत बुरी चीज है और लेना भी । मैं माननीय मन्त्री जी को बधाई देना चाहती हूं उस एक्सप्लेनेशन के लिये जो उन्होंने जोड़ा है । मैं उसका समर्थन करती हूं । वह बहुत सही चीज है । इसका क्या कारण है यह मैं आपके सामने रखना चाहती हूं । दूसरी धारा में साफ-साफ लिख दिया गया है कि शादी की शर्त के रूप में जो चीज या धन दिया जाएगा वह दहेज माना जाएगा और शर्त के अलावा जो भी कुछ दिया जाएगा वह दहेज नहीं माना जाएगा । यह चीज साफ-साफ क्लाज २ के अन्दर लिखी हुई है और जो स्पष्टीकरण दिया गया है वह केवल इस क्लाज को साफ करने के लिए दिया गया है । इसके खिलाफ यह कहा कहा जाता है कि अगर एक्सप्लेनेशन को मान लिया जाएगा तो लोग कई बहानों से बहुत सी चीजें दे देंगे और अगर एक्सप्लेनेशन नहीं होगा तो नहीं दे पायेंगे । अगर क्लाज २ को विना ही रखा जाता है तो इसका मतलब यह होगा कि जो पढ़े-लिखे हैं जो चालाक हैं, जो टैक्नीकल लैंगुएज को समझते हैं वे शादी की शर्त के रूप में दी जाने वाली चीजों के अलावा सब कुछ दे सकते हैं लेकिन जो लोग लीगल लैंगुएज को, टैक्नीकल लैंगुएज को नहीं समझते हैं, उनको तकलीफ होगी । वे लोग जो पढ़े-लिखे नहीं हैं उनको विवाह के समय वकील से पूछना पड़ेगा कि दूसरी धारा का क्या मतलब है, और क्या दिया जा सकता है या नहीं दिया जा सकता है । इससे उनको तकलीफ होगा । वकील उनको इस चीज को समझायेगा, तब उनकी समझ में यह चीज आएगी । वह उनको कहेगा कि कुछ भी दिया जा सकता है लेकिन वह शादी की शर्त के रूप में नहीं होना चाहिये । इस वास्ते मैं समझती हूं कि जब तक हम दूसरी धारा को रखते हैं जिसके अन्दर यह है कि शादी की शर्त के अलावा सब कुछ दिया जा सकता है तब तक इस एक्सप्लेनेशन का रहना ज्यादा उपयोगी होगा और लोग अंधेरे में नहीं रहेंगे । जब आप एक्सप्लेनेशन दे देंगे तो लोग समझ जायेंगे कि यह यह चीज हम अपनी खुशी से दे सकते हैं । या तो आप धारा २ को ही न रखें और कह दें कि शादी के समय कुछ भी डायरी है और अगर इस धारा को इसी प्रकार रखते हैं तो एक्सप्लेनेशन का होना बहुत जरूरी है । इससे कोई धोखे में नहीं रहेगा और चीज साफ हो जाएगी । जो लोग यह कहते हैं कि एक्सप्लेनेशन के होने से ज्यादा दिया जाएगा उनकी बात मेरी समझ में नहीं आती है । अगर एक्सप्लेनेशन को हटा दिया जाएगा तो, शायद वह यह समझते हैं कि, इसका यह मतलब हो जाएगा कि कुछ भी नहीं दिया जा सकता है, जो कि गलत है । अगर वे ऐसा समझते हैं तो मुझे ताज्जुब होता है । कैसे यह समझा जा सकता है कि कुछ भी नहीं दिया जा सकता है ?

[श्रीमती शारदा भार्गव]

हमारे यहां लड़कियों की शादियां १४-१५ वर्ष की उम्र में हो जाती हैं। जिस समय वे ससुराल जाती हैं उस समय यदि यह सोच लिया जाए कि कुछ भी नहीं देना है तो इसका मतलब यह हुआ कि साड़ी भी वह अपने घर की पहन कर नहीं जा सकती है और अगर ऐसा है तो यह बहुत ही गलत चीज है। क्या यह सम्भव है कि लड़की बिना साड़ी के ससुराल भेजते समय ससुराल से ही साड़ी भी पहनने को मंगवाई जाये और पिता पर उसका उस समय साड़ी लेने का हक नहीं रहे और उसको साड़ी पहनने की भी जरूरत नहीं है। क्योंकि अगर कोई भी चीज देने की कतई मुमानियत हो जाती है तो इसका मतलब यह होगा कि अगर वह साड़ी पहन कर भी जाती है तो वह डावरी समझ ली जाएगी। इस वास्ते मैं समझती हूं कि धारा २ का मतलब साफ है और जो स्पष्टीकरण किया गया है उसका भी मतलब साफ है। इसका मतलब यह है कि शादी की शर्त के रूप में दी गई कोई चीज ही डावरी समझी जाएगी, दूसरी चीजें नहीं। अगर एक्सप्लेनेशन को आप नहीं रखते हैं तो जो कम पढ़े लिखे हैं जो लीगल लैंगुएज को नहीं समझते हैं, उनको तकलीफ होगी और जो पढ़े लिखे हैं, जो समझदार हैं, उनको कोई तकलीफ नहीं होगी। वे क्लाज २ से ही यह पता चला लेंगे कि शादी की शर्त के रूप में कुछ नहीं दिया जाना चाहिये इस वास्ते मैं समझती हूं कि ला मिनिस्टर साहब ने एक्सप्लेनेशन देकर इस सारी चीज को साफ कर दिया है और बता दिया है कि धारा २ से उनका क्या मतलब है। मैं इस धारा का तथा एक्सप्लेनेशन का हृदय से समर्थन करती हैं और चाहती हूं कि यह एक्सप्लेनेशन जरूर रहे। इस चीज को स्पष्ट कर देना बहुत जरूरी है और अगर इसको स्पष्ट नहीं किया जाता है तो लोगों को परेशानी होने के अलावा कुछ नहीं होगा।

इस विधेयक में सजा के लिये धारायें रखी गयी हैं। विधेयक आप कोई भी स्वीकार कर लें, अगर उसमें सजा कोई नहीं रखी जाती है तो वह विधेयक बेकार हो जाता है। सजा देना बहुत जरूरी है। इस धारा में जो प्रोविजो रखा गया है उसका भी मैं समर्थन करती हूं। यहां पर हैरासमेंट की बात कही गई है। हैरासमेंट की कम गुंजाइश हो, इसके लिये राज्य सरकारों को सोचने का मौका दिया गया है कि अगर कोई मुकदमा करे तो राज्य सरकार यह देख ले कि उस मुकदमे में सचमुच कुछ तत्व है या केवल दुश्मनी की बिना पर मुकदमा किया गया रहा है। अतः सजा देने वाली चौथी धारा को जिस रूप में अब रखा गया है उसका मैं समर्थन करती हूं और मैं समझती हूं कि इसके इस रूप में पास हो जाने से खामख्वाह किसी को परेशान करने वाली बातें दूर हो जायेंगी।

अन्त में मैं इतना ही कहना चाहती हूं कि किसी भी सोशल ईविल को दूर करने के लिये केवल बिल पास कर देना ही काफी नहीं होता है।

[SHRI S. V. KRISHNAMOORTHY RAO *in the Chair*]

असल में जो भी सामाजिक कानून बनाये जाते हैं वे इसलिये बनाये जाते हैं कि जो लोग कानून से डरते हैं या जो लोग कानून पर चलते हैं, उसको मानते हैं, उनके ऊपर कम से कम कुछ असर तो पड़ेगा। चोरों पर तो इसी ही कानून का असर नहीं होता। उनके खिलाफ जितने भी कानून आप बना दें, कोई लाभ नहीं हो सकता है। वे चोरी तब तक करते ही जायेंगे जब तक कि पकड़ने न जावें।

मैं इस पूरे बिल का समर्थन करती हूं और आशा करती हूं कि जिस प्रकार से इसको ला मिनिस्टर साहब ने पेश किया है और जो

संशोधन प्रस्तावित किए हैं, उनको उसी रूप में स्वीकार कर लिया जाएगा और यह बिल हमारी समाज के लिये बड़ा लाभदायक सिद्ध होगा ।

13 hrs.

Shrimati Mafida Ahmed (Jorhat): Mr. Chairman, I am thankful to you for allowing me to speak on this memorable occasion of the Joint Sitting of the two Houses of Parliament.

This Bill, the Dowry Prohibition Bill, has undergone a series of discussions since its introduction in April 1959 and today we are assembled here to give it a final shape. So far I have kept myself away from the discussion; but when on the opening day of the debate I listened to the speeches made by hon. friends and when I heard Shri Tyagi and Shri P. N. Sapru speaking against the very idea of this Bill, and when they disapproved of the very principle of bringing forward this legislation, then I made up my mind to express my views on this Bill. In a way I am thankful to them that their observations have inspired me to associate myself in this debate.

I am sorry to say that I was very much distressed to hear some remarks from some hon. Members who have either directly opposed the Bill or disapproved the very principle of bringing forward this legislation. I remember that recently a Bill was passed for the prevention of cruelty to animals. It was passed and the objective of the Bill was welcome by every Member of my Party and the Opposition as well. I am really surprised why, when there was all-round concern for those dumb creations of God, why not enough concern has been shown to the daughters of this country when their parents have to settle their value in monetary terms. Can there be any greater degradation than to commercialise one's own children?

There cannot be two opinions on the fact that mere legislation cannot uproot the deep-rooted social evils; but no one can deny the educative value of social legislation and its salutary effect upon the society.

Participating in the debate Shri Khadilkar accused the lady Members for their enthusiasm to get the Bill passed. I do not find any reason why he is so allergic to see the enthusiasm among the fair sex. To prove his arguments he took shelter under the phrase that customs dominate the law. If we go back to the Indian history and see that when Raja Ram Mohan Roy carried out a ceaseless crusade against the *sati* system, all kinds of objections were raised against him. But he was relentless in his mission, and at his initiative the Government passed a Bill for the abolition of *sati*. Several generations have passed since then, and today we are convinced that the abolition of *sati* was a measure in the right direction. And so we are convinced about the effects of the Sharda Act. And it is only on account of the Sharda Act that the number of child widows has immensely decreased.

As I have already said I want to emphasise that the value of social legislation can be weighed only with time. Laws are not meant only for the present, but for generations and generations to come. As the posterity enjoy the fruits of a tree planted by their forefathers, so this step, as the hon. the Prime Minister has said, is a right and vital step towards the emancipation of women and towards the removal of social evils. I am confident its impact will be a boon for the future generations of our country.

Government cannot be a silent spectator or a silent observer of the social injustices and tyranny inflicted upon human beings. It is incumbent upon Government to give a lead in bringing social reforms and pass legislation. Its implementation is left to the society. And I have no doubt in my mind that if the seven hun-

[Shrimati Mafida Ahmed]

dred Members of the two august Houses pledge themselves to abide by this law and to educate the people to refrain from this evil social practice which begets more vices like corruption, bribery, etc. this evil will gradually disappear from our land.

I strongly feel that Government should not hesitate to extend the law to all the citizens of India, irrespective of the religion they profess if circumstances and necessity demand so in future. But that must be without any infringement of the religious sanctions and practices.

It is a common cry that corruption is rampant in our country. Why corruption is there, I ask. Because, each individual of the society is more keen to the prevalent customs and each one gets prepared to face it cowardly. It is my firm belief that if the parents are relieved from the burden of dowry, the temptation to resort to corruption will naturally disappear.

Dowry is not prevalent among some communities and in some parts of the country, I know. My esteemed friend Shrimati Pushpalata Das disclosed that the giving and taking of dowry in Assam is regarded as a sin. But with all respects to her experience I would like to submit that the tendency to give more in the shape of presents, the tendency to give more and to take more in the shape of gifts or presents, is now becoming a fashion of the present Indian society; and Assam is not an exception to this. Not only the richer section that gives expensive clothes, valuable jewelleries and other necessities of modern life the middle class and the lower middle class people also think that they should also do their best to keep up the social vanity, and as a result of the competition of giving valuable gifts, lavish receptions with big decorative *pandals* etc. is going on. And it has become a convention that when the girls go to their new homes they should carry some heavy packages with them. I would venture to urge upon the hon. Ministers to stop this convention. With all humility I request them to show the way of simple living and high thinking.

With these words I warmly welcome the Bill and I support the amendment to have the words "either directly or indirectly" in clause 2 and the retention of clause 4 with the proviso brought by the hon. the Deputy Law Minister. But regarding the Explanation I, I have my reservations. In the Explanation, when the words cash and ornaments have been included without fixing any limit, I apprehend that the givers and takers would make full use of it, I mean to say mis-use the Explanation. In the name of presents, a big amount of cash and expensive jewellery would be given in some cases and it may exceed even maximum demand and the law would not be able to punish such persons. This Explanation will water down the noble purpose of this Bill. So, I am in favour of its complete deletion.

Dr. W. S. Barlingay (Maharashtra): Mr. Deputy Chairman, Sir, while I whole heartedly welcome this Bill, I must say that I am not one of those who think that mere passing of this Bill is going to improve our society in any manner. It seems to me that the root cause of this evil will stil be there in spite of our passing this Bill. What is the root cause? If I may so, shortly, because there is not much time at my disposal the principal root cause of this whole evil is that in our society, we are fast changing our sense of values. Farmerly, in our old Hindu society, the status of a person in society did not depend upon the amount of money that he possessed. After some time, we deteriorated. In recent years, it was Gandhiji who, for the first time pointed out that all our degeneration is mainly due to the fact that we are laying emphasis not so much on *tyaga* as on *bhoga*. In other words, what he said was that, today, the status of a person in society depends not upon his learning or upon his character at all, but rather upon the amount of money that he possesses. This is so, as you find

today in our society, in spite of our several Plans? We are not trying to dissociate the status of a person from the amount of money that he possesses. On the other hand, we feel that if we have got a motor car, our status is somehow greater than the status of a person who goes on foot. That sort of conception of social values is at the root of all this dowry system which has got to be condemned on all hands. There can be no controversy about this. Having said so much about this, my view is that unless these social values really change and unless we revert to the values which Gandhiji gave us, I do not think we have got any future or that this dowry system is going to disappear from our society.

Coming to the various amendments that have been proposed, so far as the first amendment is concerned, I am definitely of the view that the words directly or indirectly in clause 2 of this Bill are essential. In this respect I regret to say that although I have very great respect for Shri P. N. Sapru, I completely disagree with him on this point. I feel that the words 'directly or indirectly' lend a point—a legal point, if I may say so—to that clause. It is not wholly redundant as Shri P. N. Sapru tried to make out.

Coming to the second clause, Explanation No. I, about which, again there is some controversy, my view is this. Many reasons, very good reasons were given yesterday by Shri Jagannath Kaushal for deleting this Explanation No. I. The main reason, of course, was that it leaves several loopholes for getting round the various provisions of this Bill. It seems to me however, that there is an objection to the draft of the explanation. I would like to invite the pointed attention of the hon. Members to what I am saying about the draft of the Bill today. The definition of 'dowry' is like this:

> "dowry" means any property or valuable security given or agreed to be given—

First of all, "given", it will be remembered, includes gifts also. Then, it says:

> (a) by one party to a marriage to the other party to the marriage; or
>
> (b) by the parents of either party to a marriage or by any other person to either party to the marriage or to any other person;

at or before or after the marriage as consideration for the marriage of the said parties,.....etc.

Look at the wording of this Explanation. Virtually, it repeats the very words which the definition of the word 'dowry' contains.

> "Explanation I—For the removal of doubts, it is hereby declared any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties."

We have merely to put two and two together. May I say, the conclusion is this? Explanation I is for the removal of doubts. What the Explanation virtually means is, that for the sake of removal of doubts we hereby repeat the definition of the word 'dowry' once more. That is what it comes to. It means nothing more, nothing less. Actually, the Explanation ought to make explicit what is implicit in the definition. But, the Explanation I does nothing of the kind. I may have exaggerated a little. It is possible that I may have been unfair to the draftsmen. But, it does seem to me that the drafting has got to be improved considerably before we can really accept it.

So far as clause 4 is concerned, like the hon. Lady Member who spoke first in this House, the other day, I am definitely of the view that it is primarily the demand for dowry which is of the essence of the social evil. I am quite clear in my mind

[Dr. W. S. Barlingay]

that this demand has got to be made punishable. But then, the difficulty was that our principles of law are that ninety-nine people who have committed an affence may go scot-free, but one innocent man ought not to be punished. That is at the basis of our jurisprudence. It seems to me that if the original clause had been retained, then, a good deal of undue advantage could have been taken of the provisions of that clause. It is, therefore, a good thing that the hon. Deputy Law Minister has come forward with an amendment to the original clause. I am sorry to say that I do not agree with Shrimati Parvathi Krishnan that that proviso is going to create more difficulties and be responsible for several kinds of social harassment. I feel that on the whole this amendment is a good amendment and should be accepted.

Mr. Deputy-Chairman: Now, Shrimati Sahodra Bai Rai. The hon. Member is not here. Now, Shri N. B Maiti.

Shri N. B. Maiti (Ghatal): I fully support the Bill with the amendments suggested by Government. This is a Bill which has checks and balances.

First of all, in clause 2, by the addition of the words 'either directly or indirectly' by Rajya Sabha, the Bill has been made more explicit and of better effect..

Then, by the addition of Explanation I, the doubts have been set at rest as to the difference between what is called 'consideration' and what is called 'presents'. In marriages, there must be some presents by somebody, either by the members of the family of the bride or of the bridegroom or by their relatives. Therefore, we cannot do away with presents. But 'consideration' is a separate thing; money or something paid as consideration for marriage is a separate thing. Therefore, by the insertion of Explanation I, the meaning has been made clear, as to what is meaint by consideration and what is meant by 'presents'.

Then, by the addition of the proviso to clause 4, as proposed by the Deputy Law Minister, any frivolous institution of cases either out of malice or out of envy or vindictiveness has been provided against, because it will then not be easy to institute any proceedings in cases in which either the one party or the other is displaced with its counterparts. Therefore, the proviso will be balancing the whole thing.

As far as the clause itself is concerned, it is required, because there must be some sort of punishment attached to the infringement of the provisions.

Therefore, I support the three things, namely the insertion of the words 'either directly or indirectly' in clause 2, the retention of explanation I, and clause 4 as it is sought to be amended by the Deputy Minister by the inclusion of the proviso.

Though it is quite right that a Bill like this when put into effect as an Act will not be able to do away completely with the age-long evil that is continuing in our society, even then it is a good check. There is no doubt about it.

Therefore, I fully support this Bill.

श्री शीलभद्र याजी (बिहार) : उपसभापति महोदय, इस डाउरी प्राहिबशन बिल की क्या उपयोगिता है इस पर बहुत सी तकरीरें हुईं । मैं उसकी उपयोगिता पर कुछ कहना नहीं चाहता लेकिन इस विधेयक पर और इस की तरमीम पर बोलते हुए जो हमारे ला मिनिस्टर साहब ने तकरीर की उससे हम लोगों को बहुत दुःख हुआ । हिन्दुस्तान के ला मिनिस्टर साहब यदि

किसी विधेयक को सदन के समक्ष रखते हैं और इस तरह की घोषणा करते हैं कि यह बिल ठीक तरीके से काम नहीं करेगा तो हिन्दुस्तान की तमाम जनता पर जो कि ला को मानने वाली है उसका बुरा असर पड़ सकता है । मेरी समझ में उनको इस तरीके से कहना नहीं चाहिए था ।

जहां तक राज्य सभा या लोक सभा की तरमीमों का ताल्लुक है, मैं समझता हूं कि दोनों सदनों का समागम होना चाहिए । राज्य सभा ने प्रत्यक्ष और अप्रत्यक्ष रूप से दहेज देने की जो बात की है उसको मान लेना चाहिए । इसके अलावा लोक सभा ने जो क्लाज २ में एक्सप्लेनेशन जोड़ा है उसको बिल में से हटा देना चाहिए क्योंकि जो स्पष्टीकरण एक तरह से डाउरी की डिमांड को लीगेलाइज करने के बारे में है यदि वह विधयक में रहने दिया जाता है और जिसके कि द्वारा लोगों को दहेज देने की छुट दी गई है तो मैं समझता हूं कि उस एक्सप्लेनेशन के साथ इस बिल को पास करने से तो बेहतर यह होगा कि यह बिल ही वापस ले लिया जाय । एक्सप्लेनेशन नम्बर १ के जरिये हम डाउरी को लीगेलाइज कर रहे हैं और इसको रख कर एक तरीके से एक हाथ से जो बिल हम जनता को दे रहे हैं दूसरे हाथ से उसको वापिस लिये ले रहे हैं । एक्सप्लेनेशन का पेट इतना बड़ा है कि जिसकी कि कोई हद नहीं और उसके अन्दर कैश, ओर्नामेंट्स, कपड़े लत्ते, हाथी घोड़े कुछ भी दिये जा सकते हैं । मेरे विचार में यदि उस एक्सप्लेनेशन को बिल में जोड़ दिया जाता है तो फिर यह डाउरी प्राहिब्शन बिल बेकार हो जाता है और उससे कोई फायदा होने वाला नहीं है ।

अब यह जो नजराने और गिफ्ट्स वगैरह लड़कियों को देने की बात चलती है तो जब लड़की को हिन्दू सक्सेशन ऐक्ट के मुताबिक जायदाद में हिस्सा भी मिल सकता है तो शादी के बाद अगर लड़की को कोई चीज देना चाहे तो उसको कोई रोकने वाला नहीं है । अभी हमारे एक बहिन सदस्या ने कहा कि उसको स्पष्टीकरण करने से साड़ी तक नहीं मिलेगी । अब लड़की साड़ी पहन कर ही तो बठेगी । बिना साड़ी पहने वह कैसे शादी में बठेगी ? अब साड़ी को कैसे नजराना करार दिया जा सकेगा ? इसलिये इस तरीके की बात करने से काम चलने वाला नहीं है ।

ऐक्सप्लेनेशन १ को बिल में से हटा देना चाहिए वरना इस बिल की जान ही निकल जाती है और यह बेकार हो जाता है ।

इसके अलावा श्री हजरनवीस ने जो प्राविजो रखा है मैं समझता हूं कि उस प्राविजो की कोई जरूरत नहीं है । आज जो हमारे सदस्यों की यह आशंका है कि इस तरह के सोशल कानूनों की अवज्ञा होती है उसकी वजह यह है कि शारदा ऐक्ट और उसी तरह के दूसरे कानूनों में भी आप ने पुलिस को पावर्स नहीं दी थीं । इस ऐक्ट में भी आप पुलिस को पावर नहीं दे रहे हैं । अब जब पुलिस सारे देश पर शासन कर सकती है, बड़े बड़े हत्या के केसों को पकड़ सकती है तो कोई कारण नहीं है कि वह इस ऐक्ट का ठीक तरह से अमल न करा सकें और औफंडरस को सजा न दिला सके । लेकिन यदि आप पुलिस को पावर नहीं देते हैं तो फिर माननीय सदस्यों की जो आशंका है कि इस कानून की अवज्ञा होगी वह गलत नहीं है । इसलिए मैं समझता हूं कि दहेज मांगने पर जो सजा देने का प्राविजन है वह जरूर रहना चाहिए और जो श्री हजरनवीस ने प्राविजो जोड़ना चाहा है उसको हटा देना चाहिए और उसको न जोड़ना चाहिए । ऐसा होने से ही मैं समझता हूं कि यह बिल सार्थिक हो सकेगा ।

[श्री शील भद्र याजी]

इन शब्दों के साथ मैं इस विधेयक का समर्थन करता हूं और राज्य सभा और लोक सभा दोनों हाउसेज के माननीय सदस्यों से यह अपील करता हूं कि वे आपस में सामंजस्य करें। जो हमारे दो अमेंडमेंट्स हैं उनको स्वीकार कर लिया जाय और उनका डाउरी डिमांड को जो पीनेलाइज करने का सुझाव है उसको हम मान लें। इसके साथ ही श्री हजरनवीस का प्राविजो जोड़ने वाला अमेंडमेंट है उसको हम दोनों मिल कर नामंजर कर दें। ऐसा करने से ही यह बिल सार्थक होगा और जो मकसद हम हासिल करना चाहते हैं वह पूरा हो सकेगा। हम समझते हैं कि इस सम्बन्ध में पुलिस को काफी पावर देनी चाहिए।

यदि शारदा ऐक्ट में पुलिस को काफी पावर दे दी जाती, तो उसकी दुर्गति न होती। इस बिल में जो मजिस्ट्रेट के विषय में व्यवस्था की गई है उससे काम चलने वाला नहीं है। यह पुलिस का काम है। पुलिस पर ही सुरक्षा और व्यवस्था का भार है, इस लिए उसको पावर दी जानी चाहिए कि वह तिलक, दहेज देने वाले और लेने वाले को पकड़ सकें। यदि पुलिस को काफी पावर दी गई तभी यह कानून सार्थक हो सकेगा।

मैं यह निवेदन करना चाहता हूं कि हमारे देश और समाज में इस कानून की बड़ी जरूरत है। कुछ बुजुर्ग सदस्यों ने इसके विरोध में कहा है। माननीय सदस्य, श्री सप्रू, ने तो पुराने जमाने की बात कही है कि इस कानून की जरूरत ही नहीं है, लेकिन मैं उनसे मुत्तफिक नहीं हूं। मैं आशा करता हूं कि जो बुजुर्ग सदस्य इसको मानने के लिए तयार नहीं हैं, वे इसको मानेंगे। यदि राज्य सभा की अमेंडमेंट्स को और दहेज मांगने को पीनेलाइज करने सम्बन्धी लोक सभा की अमेंडमेंट को स्वीकार किया जायगा, तो यह विधेयक सही मानों में अच्छा हो सकेगा। स कानून के बनने से जनता पर काफी नैतिक असर पड़ेगा। मैं आशा करता हूं कि कम से कम पार्लियामेंट के मेम्बर और समाज सेवी आदि अब तिलक दहेज की बात नहीं करेंगे।

आखिर में मैं फिर पुरजोर अपील करता हूं कि माननीय सदस्य एक स्वर से इस बिल को पास करके इस सामाजिक कुरीति को दूर करने की चेष्टा करेंगे।

Shri A. K. Sen: Mr. Deputy-Chairman, I am extremely obliged to the hon. Members who have taken part in the debate for the support given to the principles of the Bill and also to the basic structure of the Bill. The differences that have been expressed are differences that we know of already and we have met only to resolve those differences. I shall endeavour to answer some of the salient points made against what I said in support of the retention of the words 'either directly or indirectly' in clause 2 and the introduction of a proviso to clause 4. I shall also deal with what has been ascribed to me as being my view concerning *Explanation I* to clause 2 of the Bill.

I did not express any view on the *Explanation* at all. A perusal of what I said would make it quite clear that what I said was by way of explaining to hon. Members what the different points of view have been, different points of view responsible for the introduction of the *Explanation* and also for the rejection of the *Explanation*. I said quite clearly that, according to me, it made no difference to the substance of the Bill whether the *Explanation* remained or not. I remember I said that it must be acknowledged that the view urged on behalf of those who wanted the withdrawal of this *Explanation* must certainly be appreciated because it could not be completely dismissed cursorily that this *Explana-*

tion—would not give encouragement to those who wanted to evade the law, though I am quite clear that those who want to evade the law needed no encouragement from the words of the law itself; they have plenty of assistance outside for that purpose. But I made it quite clear that so far as Government was concerned or I was personally concerned, we were quite neutral on the question concerning the retention or deletion of *Explanation I*

15.35 hrs.

[MR. SPEAKER *in the Chair*]

It was made quite clear by the Prime Minister also that hon. Members would exercise their vote as they liked on this. But I was rather surprised that an hon. Member, Shri Sheel Bhadra Yajee, ascribed to me something which never fell from me. He said he was sorry to note what I am supposed to have said that this law could not be enforced.

Shri Sheel Bhadra Yajee: Could not be effectively enforced.

Shri A. K. Sen: I did not say even that. I shall read out what I said. What I said in my submission was not only appropriate but was in discharge of the basic duty I owed to this House, namely, to tell hon. Members frankly and candidly what were the possibilities of the successful enforcement of a particular piece of legislation, when in particular that legislation sought to cure a very old-standing and yet widespread social vice. I should have failed in my duty if I did not point out to this hon. House the difficulties in the way of the enforcement of such a Bill as the present one. This was what I said:

> "In regard to evasion, let us be quite clear that even without *Explanation I*, evaders would be quite plenty in number, and that those who want to evade need no encouragement from *Explanation I* at all. They will have plenty of encouragement either from themselves or from those who are ready to assist them. Therefore, if it is thought that the removal of *Explanation I* would stop evaders"—

that is what I said—

> "I must say that I cannot share that view with all the optimism that marks the attitude of those who are in favour of removing *Explanation I*"—

I repeat it now that the removal of *Explanation I* will not stop evasion, even if it is thought that it will—

> "Let us be quite clear that while we pass this law, evasions will be there, that the system of dowry will not be removed by this Act alone, but that notwithstanding all these defects, we are passing this law at least to reverse the process of social thinking so that those who think that they can with impunity and without social odium demand and take dowry may, after the passing of this law, not have that confidence and they will have the entire weight of law against them and the entire process of social thinking will start taking a reverse direction from after the passing of this law".

I think what I said cannot be objected to from any point of view (*Interruption*). I cannot accept the criticism that it was an inappropriate discourse coming as it did from the Law Minister. I say with confidence and with humility that this is exactly what I needed to say if I had to discharge my duty to this hon. House with faith and frankness.

Shri Sheel Bhadra Yajee: Why has he brought forward the Bill?

Shri A. K. Sen: I am answerable for what I said.

[Shri A. K. Sen]

In saying what I said, I have discharged my duty frankly and with complete faith.

Shrimati Renu Chakravartty: The point which everybody wants to have clarified is whether without the Explanation *bona fide* gifts are included in the definition.

Shri A. K. Sen: I said that *bona fide* gifts were emempt even without the *Explanation*. I made it quite clear at the very beginning. I said that it was a mistake to suppose that without the *Explanation bona fide* gifts flowing out of natural love and affection would be penalised. I made it quite clear at the very beginning of my speech. I repeat that again.

Shri Tyagi (Dehra Dun): Explanation does not add anything to it.

Shri A. K. Sen: Exactly. (*Interruptions*).

Shri Bhupesh Gupta: *Explanation* is inserted for the removal of doubts.

Shri A. K. Sen: I personally was never in doubt. This was put in at the instance of those who felt some doubt. Those who felt this doubt were not men of ordinary commonsense. Possibly that was why the Lok Sabha felt that an *Explanation* to remove those doubts might be called for. But as I said, I never personally expressed any view either in favour of or against the *Explanation*.

Shri A. D. Mani (Madhya Pradesh): Is it your considered view that if the Explanation is dropped, the Bill will not be weak?

Shri A. K. Sen: There is no question of the Bill becoming weak. In substance, the Bill would remain just the same.

Shri Tyagi: You say the Explanation is only a clarification of the wording of the section. The Explanation seems to explain what is already contained in the section itself.

Pandit Thakur Das Bhargava (Hissar): May I ask one question? What happens to section 115 of the Evidence Act? You yourself propose this clause, you yourself proposed this Explanation and got the House to pass it and now you are standing neutral. You can blow hot and cold. Large heartedness has also a limit.

Shri A. K. Sen: As I said, it is my considered view that the Explanation adds nothing to the section except clarifying what is already implicit in the section itself.

Shri Tajamul Hussain: On a point of order. Is it proper for the Minister in charge to say that he is neutral about it, that he has opinion neither this way nor the other? Can he say that?

Mr. Speaker: A point of order has been raised as to whether it is open to the sponsor of a Bill, when he has added an Explanation, to say that either view may be accepted; is he not bound to stick to one view, and say that the one is better than the other? It is open to him to say what he pleases. The objection is only to something that is given as an inducement for marriage, or what is called dowry in the definition. If it is not intended for the purpose of effecting a marriage, if it is independently of it as a present, the definition of dowry itself does not prevent the making of such presents. Inasmuch as doubts may be caused, and in some shape or form the law may be circumvented, the hon. Minister says he is adding the Explanation. It is not as if the main clause does not contain it, but when doubts arise, it is better to add an Explanation, instead of allowing the courts to go into the matter. That is what is being done by the legislature. That is all that the hon. Minister says. There is no point of order.

Shri A. K. Sen: The Lok Sabha added this Expalnation, and I thought of reconciling both the points of view with the further statement that the Government was not committed either to one view or the other. That is all that I said, and I do not see how such a course is not permissible for any Minister to take. Therefore, I am really concerned with answering some of the general observations, as also the question as to whether the proviso, notice of which has already been circulated, should remain or not.

I have not really followed the argument of those who have been against this Bill altogether. Their arguments, the arguments of Shri Jaipal Singh, a respected Member of the House Acharya Kripalani, and several others, have been . . .

An Hon. Member: They are reactionaries.

Shri A. K. Sen: I suppose this House has always set the tradition that different points of view may be allowed to be expressed without one calling the other by all sorts of names.

They had based their arguments on the ground that since this legislation is not going to abolish dowry by itself and since sturdy public opinion would be necessary to make the provisions of this law effective, it would be useless to enact this law.

Shri Jaipal Singh, in his inimitable and yet very lovable manner, said he was against all prohibition. I think he wanted to express something more than was explicit and the emphasis on the word "prohibition" was designed to take our mind away from the subject matter before us to matters with which we are not directly concerned. Therefore, even the personal views of the Finance Minister on the aspect of prohibition was touched upon.

I am unfortunately not a believer in leaving social vices alone to be tackled by public opinion only. In fact, in all countries, and in this country in particular, our experience has been that in many matters of social reform, legislation has gone ahead of public opinion as a guide, as a beacon for others to follow. Let us not forget that we do not plan only for the present or the past, and that legislation, like all planning, is concerned with our future life. We cannot plan the past or live the past. We cannot plant the present or live the present. The present is notional. The moment we say "present", it is gone. In terms of Hindu metaphysics, the present exists only as a matter of of idea, it does not exist as a matter of reality. The moment the word "present" is uttered, we go into the lap of the future.

Therefore, legislation, like all social and economic planning, must plan for the future, and if there is to be a plan for the future, then it must look forward to the emergence of that social condition, to the building up of that sturdy social conscience which is not only necessary for the success of measures like the present one, but for the success of every penal law.

Has theft been abolished by the Indian Penal Code, though the Code was promulgated nearly a century ago? Has forgery been abolished because it was made penal a century ago by the Indian Penal Code? Has murder ceased to exist in this country simply because the murderer is punishable with death? No, Sir. And yet, a penal law is necessary for the purpose of establishing the laws of human conduct in society. Today, there is no norm prescribed by law regarding the question of dowry. The norm, if anything, is a norm for the taker of the dowry. He feels that there is nothing in society which prohibits his demanding or taking a dowry. As I said, this law will, at least, establish a norm of human conduct, so that, after this becomes the law of the land, dowry would be illegal. That will be an advance over the present, and I have no doubt that this law, like other social legislations

[Shri A. K. Sen]

in the past, will give a correct lead, and as I said, our social thinking will take a reverse direction. It is not too much to expect for those who have supported this Bill that very soon dowry will be a thing of the past, and that what will remain is only a pure gift of the parents and relations as it used to be in the olden days, when it was considered to be a pious act for every father to bestow something on his daughter at the nuptial fire, and it will not be a matter of compulsion under which the poor parent will groan in agony. I am, therefore, not at all convinced that this legislation should not be passed or is premature. I am unrepentent in my conviction that this Bill was not a day too late and that it is extremely desirable for us to pass this Bill into law so that the entire social conscience of the country will be declared without doubt and unequivocally, and that this will be, as I said, a piece of social education helping in the growth of that public opinion which alone can eradicate the social evils like the evil of dowry.

Now, Sir, having made these general observations regarding the desirability of having this law, may I go on with the question of the proviso because that seems to be really one of the main items of controversy even on the floor of this House. There is no point of disagreement on the retention of the words 'directly or indirectly' in clause 2 though I think, our esteemed friend Shri Vajpayee said that these words 'directly or indirectly' should not remain. With regard to the proviso to clause 4, I am taking it ahead of the explanation. May I say that this proviso is designed to effect a compromise between two extreme points of view, one point of view urging the penalisation of all demand for dowry and making it punishable with imprisonment and the other point of view which said that though it was desirable to stop all demands for dowry by penalisation, yet the mere demand would throw the door completely open to all sorts of false and frivolous complaints being filed against the fathers or relations of the bridegrooms who were sought after by the others and who were unsuccessful in having their daughters chosen as the brides. It was said that the taking of dowry would require complete proof and a man who alleges that a person has taken dowry has to lay some minimum proof in order to substantiate his charge. He has to prove that all the ornaments, sarees and other gifts were purchased and given. If money is the point of contention how much money was withdrawn from the bank and paid? Some proof of that nature is necessary. Some minimum proof is necessary to sustain the complaint regarding the actual taking of dowry. It was said that a mere demand not followed by actual giving would not be substantiated or capable of being substantiated by anything more than verbal testimony, because there will be no proof regarding the actual expenditure incurred in buying the ornaments, clothes or similar gifts which were necessary in the case of a complaint for actual giving or taking. What I said was that legally this was correct. If a court is called upon to decide whether a man is guilty of mere demand or not, it will have to depend upon verbal testimony, oath against oath. After this law no man would demand dowry in writing nor is it reasonable to suppose that there would be many foolish men who would commit this in writing which will be proof of the crime. Ultimately, all practical lawyers would bear me out, the courts for all purposes, when called upon to determine whether a person has been guilty of mere demand or not will have to determine this question on testimony, belief or disbelief of personal testimony of witnesses—meaning thereby, disbelief of the statement of the accused and belief in the statement of prosecution witnesses. That will ultimately be the test for any conviction.

What was stated was that ultimately a man might be acquitted. Yet he will go through the prolonged pro-

secution which, in this country, may last a year or two and since our criminal cases do not allow the cost to the accused, an accused who is acquitted at the end of the prosecution may be out of pocket to the extent of a few hundreds of rupees or a few thousands of rupees. Therefore, it was stated that precautions should be taken in order to safeguard against the launching of false and frivolous prosecution. What was suggested was the setting of a machinery the sanction of which would be necessary before the court could take cognizance of a complaint based on a mere demand. In order to reconcile these two conflicting points of view, the hon. Deputy Minister has proposed the proviso of which notice has already been given. In my submission, it makes it more effective while the prosecution would be permissible against people who merely demand dowry, yet there will be a safeguard against frivolous prosecutions being launched as in the initial stage such a complaint will be screened by an officer responsible enough to be nominated by the State Government. It was stated by some that the State Government might not do its duty. But this Act cannot be enforced unless the State Government does its duty because the prosecutions will have to be launched by the State Government and by no one else. Therefore, it is no argument to say that the State Government would not do its duty. In fact for the purpose of seeing that an official will be ready at hand for any complainant who may choose to file a complaint, we have inserted this provision providing that the State Government may nominate by a general order or a special order an officer. The purpose of a special order is that in remote places, far away places which may not be very conveniently situated from the location of the district officers or headquarters, it may be necessary to nominate special officers by special orders so that people in these far away places may have the necessary officer near them. Therefore, the purpose of providing for this special officer is not to set up a special mechanism but to make it more convenient for the ordinary man in the villages to approach the requisite officer. It is for that purpose that we did not specify either the advocate general or the district magistrate or a first class magistrate because a man far away in the villages will have to travel to the nearest first class magistrate. It may be that in areas where the first class magistrate is readily accessible the State Government will nominate him. The argument against this proviso proceeded on the erroneous belief that this proviso ruled out first class magistrates. It did not rule them out at all. On the contrary, it allows the State Government to nominate not only first class magistrates but also others, where first class magistrates are not available. Therefore, I fail to appreciate the strength of that criticism which says that first class magistrates would not be able to function. On the contrary, if the State Government so desires, they can nominate first class magistrates; they can nominate second class magistrates if they so desire; they can nominate other officers, if the first class magistrates or the second class magistrates are not available at a particular locality. Therefore, this proviso comprehends the possibility of the State Government nominating not only the first class magistrate but also other officers, having regard to the possibility that first class magistrates may not be available everywhere. Therefore, the insertion of a proviso requiring only first class magistrates to attend to this work, would actually make it more difficult for prosecution to be launched, and therefore, I should have thought that the proviso as it is drafted will be more welcome for those who wanted to make it more convenient for the ordinary litigant in the villages to approach the necessary authorities easily and more readily in order to obtain the requisite relief. Therefore, I submit that the most useful compromise and the most easy compromise between the two divergent points of view on this subject would be found in the reten-

[Shri A. K. Sen]

tion of the proviso as suggested by the proposed amendment of the Deputy Minister of Law.

16 hrs.

Then the next question is about the Explanation.

Shri Tajamul Hussain: I rise to a point of information. Under clause 4—

Mr. Speaker: Let the hon. Minister conclude. Thereafter, if any hon. Member wants some clarification, I will allow.

Shri A. K. Sen: With regard to the question of Explanation, I have really hardly anything more to add to what I said initially and to what I have said now. I said that the Explanation does nothing more than what the clause itself does, but the very use of the expression "Explanation" means that it is an explanation of the section and nothing more than that. It will be for hon. Members to decide whether the Explanation should be retained for the purpose of explanation or whether the clause by itself is clear enough and does not require any explanation to support it.

This really brings me to the end of the debate so far as my reply is concerned. But I would like to deal with one point raised by Shri Prakash Vir Shastri wherein he said that we are really seeking to display the fact that we are against dowry while we are really retaining all the provisions necessary to perpetuate this evil of dowry. He thought that we are more fond of making a show of our opposition, our hostility, to the system of dowry and that we are not making a sincere attempt to abolish it. But, while he said this, he made certain pertinent references to the basic idea of wifehood in our society.

पंडित ब्रज नारायण ब्रजेश : श्री प्रकाशवीर शास्त्री तो आज या शनीवार को इस विषय पर नहीं बोले हैं ।

Shri A. K. Sen: I am very sorry. I sincerely apologise. I meant the hon. Member, Pandit Brij Narayan "Brijesh". I know him very well. But both are such good Hindi speakers that, if I may say so with respect, one is apt to confuse one with the other. I sincerely apologise for the confusion. What I must say is that while making this general attack which possibly one does when one is not with the Government, he made certain pertinent references to the basic idea of wifehood and what we should really regard as our ideal to follow in matters pertaining to marriage and matrimony. He said that when we bring a wife, we bring a Lakshmi. In fact, she is called *Grihalakshmi* in Sanskrit and Hindi and Bengali and in all the other languages mentioned in the Schedule to the Constitution, meaning thereby that the source of prosperity is brought to the house. He rightly said that that is inconsistent with the idea of something being carried by her physically in the way of wealth or gift. Who can dispute such a proposition? There is no doubt about it. The whole, basic idea being this, our ideal being this, our whole tradition being this, nevertheless, we have deviated from these ideals and have developed certain vices which really have made us weak. By repeating what our ideals are, we will go no further than reminding ourselves of what our ideals should be. Yet, the necessity is all the more emphasised for legislating for the purpose of realising those ideals or for the purpose of helping us to realise those ideals. That does not take away from the necessity of legislating on this subject though it is necessary on such an occasion to remind ourselves of the basic values of our social life.

Then, I think it was Shrimati Pushpalata Das who was quoting from a well-known poem of Dr. Tagore, which she recited in such a perfect manner that one never thought that she was an Assamese when she read it. Though I may be digressing from the point, it showed again how similar are the Bengalis and Assamese, and

therefore how silly it is for them to fight amongst themselves. She said that the idea of immortal womanhood that we have always followed was basically opposed to the system of dowry which is degrading to womanhood, and the ideal of woman that we have always had, from the *Vedas* up to the modern times, has been that she is a comrade when we marry, a guide when we are old and a mother when we are young. That is exactly what this immortal poem of Dr. Tagore wanted to symbolise. If you say that the women you want to take is not a comrade, and has no equal right, then do not take her. As I said, these are again matters basic and inherent in our culture and yet matters which do not always commend to us at times when they should really be followed rigorously without deviation. And if we did follow them, this Bill would have been unnecessary; our speeches would have been unnecessary and all the motions that our sisters have brought together on the floor of the House would have been unnecessary.

One great thing has been achieved, if I may say so with respect, notwithstanding divergence of views which have marked our discussion here, and that is, the combined wisdom of the two Houses of Parliament, gathered together and deliberating upon this matter and pronouncing ultimately upon it and thereby giving this matter the highest of importance in our social life. The entire matter which was at one time confined only to social reformers or to suffering parents, has now been high-lighted in such a manner that it has been lifted almost to the level of a national problem. It has now reached, what you might say, the high watermark of caste. It has become a caste problem and not an untouchable any longer. Therefore, having been high-lighted to this high level, it will now be for this Parliament, gathered together and joined together with both the Houses, to pronounce ultimately upon the pernisciousness of this system and seal once and for all the legal existence of this vice. From now on, its existence will be illegal, clandestine existence, against which the entire weight of law will be directed. It will no longer have that vitality to continue as it did have in olden days.

I hope sincerely that the entire Parliament—the two Houses—are behind us in hoping that the days are not very distant when the history and stories of individual sufferings would no longer be repeated either here or outside and that the ideal of womanhood which we have cherished will have a completely untrammelled existence from now on.

With these words, I appeal sincerely for the acceptance of this motion with the provisions which I have indicated.

Shri Bhupesh Gupta: With regard to the proviso to clause 4, will the hon. Minister explain what exactly 'officer' means? The proviso says:

> "....previous sanction of the State Government or such officer as the State Government may, by general or special order, specify...."

Therefore, I take it that it relates to either the existing officers or officers Government may create. Yesterday, the Prime Minister referred to panchayat raj and talked about pradhans and so on. By no stretch of imagination, pradhans can be called officers either now or in future, if panchayat raj remains panchayat raj. Let the Government explain the position as to what they mean by officer. Whose officers are they? Are they Government officers or are they going to create a new set of officers or the existing officers will be specified? Are they also going to create new types of officers and then specify them?

I also want that the confusion created between the speeches of the Prime Minister and the Law Minister yesterday should be resolved.

Mr. Speaker: The hon. Minister will note the points for clarification and answer all of them at the end.

Shri Tajamul Husain: I would like to ask one or two questions, because in his reply, he never mentioned about what I had said in my speech. The first question is, under clause 4, if you demand dowry from the parent or guardian of the girl, then it is punishable. But if I were to demand dowry from the bride herself, what will happen? Supposing we are in love with each other, I am demanding from the bride herself, "Give me so much money". What will happen under clause 4?

Mr. Speaker: You are the bridegroom?

Shri Tajamul Husain: Yes; I can never be the bride. I refuse to be the bride of anybody.

Secondly, again under clause 4, you say demanding is punishable. Under criminal law, which the hon. Minister knows much more than I do, in order to commit an offence of crime, you must have two things—*mens rea* and *actus reas*.

Mr. Speaker: He said all that.

Shri Tajamul Husain: It has not been answered. How can I be guilty only by asking?

Thirdly, under the explanation, anything given as present is not dowry. Do you think anybody will say that he is giving dowry? Whatever he is giving as dowry, he will say that he is giving it as present. The hon. Minister said he does not care whether the explanation remains or not. As Minister in charge of the Bill, does he realise that if that clause remains the whole object of the Bill will be frustrated?

Mr. Speaker: Hon. Members ought not to make a second speech.

Shri Tajamul Husain: I am only asking for clarification.

Mr. Speaker: He is not asking for clarification; he is clarifying his own view. He should now resume his seat.

Shrimati Renu Chakravartty: On this very question of 'officer' in the proviso to clause 4, one question has been put by Shri Bhupesh Gupta. I think Dr. Seeta Parmanand said in her speech that it might be even better if we have non-officials appointed by the State Government. She has explained that there might be officers like the marriage conciliation officer, specially in cities or other women social reformers. It is not clear to my mind if it is specifically stated as 'officer' whether an officer specified by the State Government will also include non-officials. This may be clarified.

Shri A. K. Sen: With regard to the question raised by Shri Bhupesh Gupta, with due respect to him, I do not think there is any difference between the point of view explained by the Prime Minister and the view explained by myself. What the Prime Minister said was that the possibility of the State Government appointing some persons for this purpose of giving permission to initiate prosecution —such officers being not the orthodox officers, but even the President of sarpanches—cannot be ruled out. But he did not say that that will be done immediately.

Normally, certainly it will be responsible officers of the State Government who will be appointed, officers who would be suited for making such enquiries and for discharging these functions. But under certain other circumstances, if there is plenty of demand and popular insistence upon the appointment of other responsible persons, such appointments may be made. Legally that would not be out of the question. Since 'officer' is not defined under the General Clauses Act, 'officer' would mean any person holding an office, according to the natural

meaning of the world. But normally I can say that the State Governments will certainly appoint responsible officers for this purpose. As I said, the whole object of this proviso is, in inaccessible areas and far-away places where ordinary first class or second class magistrates may not be easily accessible, other responsible officers may be appointed for this purpose. Since they cannot be enumerated in the Act itself, it will be best to leave it to the judgment of the State Government. If the State Government cannot be trusted to do this duty, the Act cannot be carried out, because the enforcement of the Act at the State level will be in the hands of the State Government.

Shri Tajamul Hussain said, if dowry was demanded only from parents or guardians of the bride or bridegroom, it would be an offence. It is not an explanation. He only stated the section and he possibly thought that it was anomalous. No explanation was needed, because there is no difference of opinion between the two Houses on this point. Neither the Rajya Sabha nor the Lok Sabha wanted demand from the brides or bridegrooms personally to be penalised. Therefore, there was no difference of opinion between the two Houses on this point. Therefore, we are not really called upon to deal with that at all.

With due respect to the hon. Member, this is not really a clarification. This is really a criticism, which according to him is legitimate, because we have not penalised demand made upon the bride or the bridegroom only. We have not done so. Neither the Rajya Sabha nor the Lok Sabha wanted any modification of that. The whole question is with regard to clause 4 as it is, whether it should be accepted or rejected. The proviso was designed to bring harmony between the two points of view.

With regard to the other points he raised, I am afraid I have not been able to follow them.

Mr. Speaker: I do not think he wanted a clarification. He was only saying a second time what he had already said.

Shri A. K. Sen: Yes; I do not think he really wanted any explanation. With regard to the point urged by Shrimati Renu Chakravartty, there again I am afraid I have not been able to follow.

Mr. Speaker: She only reiterated what Shri Bhupesh Gupta said. She wanted a clarification as to whether a non-official may be appointed. The hon. Law Minister said that it was open to the State Government, and if the State Government thought that because of the enormous demand here and there a non-official may also have to be appointed it may do so.

Shri A. K. Sen: But normally, as I said, a non-official may not be appointed, because the word here is "officer", and it means one who holds an office. That is the normal meaning, the natural meaning of the word. So it may be a non-official from the point of view of Government in the sense that the person concerned may not hold an office directly under the Government. But the legal possibility is there, that in case it is felt that a person like the Mayor or the Chairman of a Municipality may be entrusted with the job the State Government may appoint such a person. But as I said, normally the operation would be for the purpose of appointing responsible officers of Government who may not answer a general description like First Class Magistrate, Second Class Magistrate and so on.

Shrimati Renu Chakravartty: Sometimes women social reformers are appointed as honorary magistrates by the Government. Will they be precluded?

Shri A. K. Sen: No, no; of course not. That is what I said. I tried to point out that it was an error to suppose that any class of magistrate was

[Shri A. K. Sen]

excluded. On the contrary, all classes of magistrates were comprehended and, more than that, others were also comprehended for areas where there may be neither honorary magistrates nor first class magistrates. Take, for instance, some States other than the State of West Bengal. They have abolished the system of honorary magistrates. There are no honorary magistrates there at all. Even in a State like West Bengal or Bombay honorary magistrates function only in cities, they do not function in villages or rural areas. Therefore, the proviso comprehends all classes of magistrates and, more than that, others who are not magistrates and who may, nevertheless, be accessible as responsible officers for people residing in rural areas far away from the seats of Government.

Shri Vajpayee (Balrampur): Sir, may I point out that the hon. Law Minister.....

Mr. Speaker: There is no pointing out now; he must only seek some clarification.

Shri Vajpayee: Sir, may I seek a clarification? The hon. Law Minister has not expressed his opinion in regard to a few amendments that have been given notice of by hon. Members in regard to putting a ceiling on the value of presents to be made at the time of marriage.

Mr. Speaker: They will be voted out or voted in.

Shri Vajpayee: Clause-by-clause discussion has been ruled out. There are amendments seeking to put a ceiling on the presents to be made at the time of marriage, and it is for the hon. Law Minister to express his opinion.

Mr. Speaker: It is not necessary.

Shri A. K. Sen: I thought, Sir, that instead of specifically taking up each and every amendment and thereby flouting the direction of the Chair—I once thought of doing so, but I thought it would amount to disobeying the direction of the Chair in an indirect manner by taking up the amendments clause by clause—my general approach was sufficiently indicative of my preference for the amendments which are already notified, because if I said that so far as the explanation is concerned it was implicit in the definition itself and the definition excluded all voluntary gifts made out of natural love and affection, there is no question of any ceiling because on principle we are opposed to dowry even if it is of one penny which is tainted with the idea of purchase, which the idea of consideration, and yet we are in favour of voluntary gifts made out of natural love and affection. Shri Bhupesh Gupta, who is neither a father nor a husband yet, spoke eloquently of natural love and affection. Naturally, we are all in agreement with him. Therefore, a ceiling would be out of question.

Mr. Speaker: It may differ with the purse of the man. I shall now put the motion to the vote of the House. The question is:

> "That the Bill to prohibit the giving or taking of dowry as passed by Lok Sabha and Rajya Sabha with the amendments agreed to by both the Houses be taken into consideration for the purpose of deliberating on matters with respect to which the Houses have not agreed."

The motion was adopted.

Clause 2.— (*Definition of "dowry"*)

Mr. Speaker: We shall now take the Bill clause by clause. First we take clause 2. Motion moved:—

> That clause 2 which reads as follows, stand part of the Bill:—

2. In this Act, "dowry" means any property or valuable security given or agreed to be given—

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before or after the marriage as consideration for the marriage of the said parties, but does not include dower or mather in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation I.—For the removal of doubts, it is hereby declared that any presents made at the time of a marriage to either party to the marriage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless unless they are made as consideredation for the marriage of the said parties.

Explanation II.—The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code.

I have already said that so far as these clauses and the amendments thereto are concerned, I have allowed ample opportunity for hon. Members who have tabled the amendments and others also to speak on them. They spoke not much generally on the subject but to a large extent on the amendments. The amendments to clause 2 can be divided under four heads: (a) directly or indirectly, (b) in any shape or form, (c) omission of the explanation, and (d) limit our presents. There are one or two other amendments which do not come under these categories. There is one which says: "on or after the marriage", that means presents given during the marriage or after the marriage. There is another one which says about religious presents, those that are necessary according to religious practices, as in South India the *Mangalyam* which is made of gold is thought to be necessary. Now, hon. Members may tell me which of the amendments they would like me to put to the vote of the House.

Shrimati Renu Chakravartty: Amendments Nos. 3 and 5 may be put.

Shri P. C. Mitra: No. 11.

Shri Vajpayee: Amendment No. 12.

Shri Nawab Singh Chauhan (Uttar Pradesh): Amendment No. 10.

Shri Narayanankutty Menon (Mukandapuram): Amendment No. 2.

Mr. Speaker: There is no amendment No. 2 to clause 2. Amendment No. 2 is to clause 1.

Shri Kailka Singh (Azamgarh): Amendment No. 24.

Shri Narayanankutty Menon: Sir I beg to move:

Page 1, at the end of line 9,—

after "given" *insert* "either directly or indirectly" (3)

Mr. Speaker: The question is:

Page 1, at the end of line 9,—

after "given" *insert* "either directly or indirectly"

The motion was adopted.

Mr. Speaker: When I declare my decision in favour of the "ayes", why should those hon. Members who are in favour of the amendment stand up and tell me "Ayes have it". I thought only those who do not accept my declaration will get up and challenge it. I never knew that hon. Members who are for it will challenge my decision.

Shrimati Renu Chakravartty: I beg to move:

Page 2,—

omit lines 1 to 6. (5)

Shri N. S. Chauhan: I beg to move:

Page 2 line 4,—

after "articles" *insert*—

"of a value not exceeding two thousand rupees" (10)

Shri P. C. Mitra: I beg to move:

Page 2 line 4,—

after "articles" *insert*—

"aggregate value of which will not exceed five hundred rupees" (11).

Shri Vajpayee: I beg to move:

Page 2, line 4,—*after* "articles" *insert*—

"not exceeding two thousand rupees in value in the aggregate". (12)

Mr. Speaker: Amendment No. 5 relates to the Explanation. Hon. Members want the Explanation to be omitted altogether. Some amendments have been tabled to this Explanation that the presents may be limited, say, to Rs. 500 or 2000 and so on. It is the normal practice to place the amendments before the House first before placing the main amendment for the acceptance or deletion of the clause as such.

Dr. Sushila Nayar: I want an explanation.

Some Hon. Members: Sit down!

Mr. Speaker: I cannot prevent a submission.

Dr. Sushila Nayar: If an amendment to this Explanation saying for instance, that the presents be limited to Rs. 1,000 or 2,000, whatever it may be, is accepted, would that no preclude our voting for the deletion of the Explanation afterwords?

Mr. Speaker: No. I will put the amended explanation to the vote of the House. They may reject it. First of all, the amendments to the clauses will be accepted or rejected. I intend dividing clause 2 into separate parts, in as much as the discussion centred round the words "directly or indirectly", retention or otherwise modifying the Explanation and the definition of "dowry". Therefore, in the first instance, I will put those amendments which intend to modify the existing definition. Thereafter, whether any modifications are carried or not, in view of the desire of the House, I will put the Explanation separately to the vote of the House whether without or with modification, as the case may be Hon. Members will then have an opportunity either to accept or reject it.

श्री प्र० ना० सिंह (चन्दौसी) : अध्यक्ष महोदय, जहां तक एक्सप्लेनेशन को हटाये जाने या न हटाये जाने का सवाल है पहले उस पर वोट लिये जाने चाहिये, उस पर वोट लिये जाने के बाद यदि यह निर्णय होता है कि उसको नहीं हटाया जाना चाहिये तब उस पर सीलिंग का सवाल उठना चाहिये कि सीलिंग क्या हो, वह २,००० ० हो या ५०० रु० हो । यह नहीं होना चाहिये कि पहले सीलिंग के संशोधन पर वोट लिया जाये ।

Dr. R. B. Gour: The opinion of the House has to be taken first on whether the Explanation has to be retained or not. If it is to be retained, then the House will give its opinion whether it should be retained in its amended form or in its present form. Therefore, the first voting must be on the deletion or retention of the Explanation.

Shri Tyagi: On a point of order.

Mr. Speaker: Order, order. I will dispose of this first and then come to his point of order. In this case, it so happens that amendments are given only to one portion, that is, the Explanation to clause 2. We will take, in this context, some other case. Suppose, there is no clause 2 at all and there is only one single clause which is not divided into parts. If

the hon. Member's suggestion is to be accepted, then if some people say "omit this clause altogether", shall I first omit the clause and, thereafter, come to the amendments? (*Interruptions*) Order, order. They have made their submission and now it is for me to give my ruling, and I am giving the ruling. Suppose during clause-by-clause consideration a particular clause is taken up. There may be some hon. Members, or even the majority of the hon. Members, who want to oppose the clause altogether. Therefore, if they insist on my putting the question whether the clause should remain or not and if I put it and the clause is lost, would not those hon. Members who wanted to move their amendments to that clause object to it that they have been deprived of moving their amendment? Therefore, that is not the correct practice. I should first put the other amendment. Even if some amendments are carried, when the clause as amended is put to vote, they can vote against it. Therefore, my ruling is that I will allow the amendments to be moved first. Even if they are carried, I will put the clause separately. If there are amendments or no amendments, it is open to the House to throw out that particular clause; they are not debarred from doing that. I have already given my ruling.

Shri Bhupesh Gupta: On a point of clarification.

Mr. Speaker: I am not going to allow further arguments on this particular point.

Shri Bhupesh Gupta: It is not on that point. There can be a different type of procedure and I would like to invite your attention to certain articles of the Constitution in this matter so that you may reconsider this matter. Will you kindly allow me? Will you hear me?

Mr. Speaker: Very well. Let him come to the rostrum and speak.

Shri Bhupesh Gupta: You had been pleased to state here that the normal rules in this regard, or the convention that is followed in either House, should be followed here. I quite understand it. It seems very reasonable. I am not objecting to it. But here we are not functioning in a vacuum. Here, our functions are, to some extent, limited by what has happened in the two Houses. The Law Minister has stated that our deliberations and voting would relate only to certain things that have arisen as a result of the controversy in the two Houses. What was the controversy? The controversy between the two Houses was whether the Explanation should remain or should not remain. This is the controversy. There was no other controversy. Now, many things may be brought in. Under the Constitution it is provided that the joint session may decide the points of controversy between the two Houses. Here we are concerned with the controversy as to whether a particular explanation adopted by one House and negatived by another House should remain or not. The joint session can, according to its wisdom, decide it. I know you have the authority to modify the rules of either House in the matter of deliberation of this House for the conduct of this particular business. Therefore, would it not be better if you reconsider the position and help us in properly voting it, concentrating ourselves on the specific, definite, clear-cut issue whether the explanation should remain or the explanation should go? Everything else comes afterwards. This is my submission.

Shri Tyagi: I also want to express myself on this point of order.

Mr. Speaker: On this point?

Shri Tyagi: Yes. My submission is that if the smaller amendments to this explanation are taken first and some of the amendments are accepted by the House, then it means that the House has given its verdict on such amendments being retained. Afterwards, if the explanation is taken and voted upon and we decide that the whole explanation should be deleted, those amendments which we have accepted shall be deleted and it

[Shri Tyagi]

would be contradictory. Therefore, this is a case where we must first decide as to whether we retain the explanation or not. If we decide that we should retain it, then we shall consider the amendments to decide in what shape we retain it. So, in my opinion, the most logical thing would be to decide first whether in principle this explanation should be retained or not. Suppose we say that it should be retained; it does not mean that it should be retained as it is; amendments can be adopted afterwards. If it is decided to retain it, we shall see what final shape it shall take.

Shri C. D. Pande: I want to submit something on the procedure of voting. In my opinion, whether the presents should be limited to Rs. 5,000 or 2,000 does not form part of the explanation. The explanation is to define what is dowry and what is not dowry. How much of dowry can be given is not part of the explanation. So, it should be voted separately. The explanation is quite a different thing.

श्रीमती क्षारदा भार्गव : अध्यक्ष महोदय, छोटे अमाउन्ट्स वाले अमेंडमेंट्स मेरे ख्याल से पहले डिस्पोज ग्रौफ हो जाने चाहिये ताकि यह मालूम पड़े कि ऐक्प्लेनेशन की शक्ल क्या है ग्रौर उसके बाद फिर ऐक्सप्लेनेशन पर वोट लिया जाये ।

ग्रध्यक्ष महोदय : ठीक है ।

Order, order. I have heard both the sides. I am not going to have a detailed discussion. The point that has been raised is a simple point. Shri Bhupesh Gupta thought that I was referring only to the Rules of the one House or the other. He said that this is a sptcial sitting of both the House and this can dispose of only those amendments on the subject matter of which there has been disagreement by both the Houses. Under article 108 not only on thos matters with respect to which both the Houses have disagreed could amendments be tabled, but also on other matters relevant to those matters over which there has been disagreement. There may be that in one House the whole explanation has been thrown out, but it is open to this House to say that subject to certain modifications the explanation may be retained. Therefore I do not think that under article 108 we will be going out of the way when special power is given. Therefore I consider that limiting it to Rs. 2,000/- or to Rs. 500/- and, we have had 'directly or indirectly', many other matters which arise or are auxiliary or ancillary to those matters over which there has been a difference, can be looked into by this House.

Shri A. K. Sen: I do not at all dispute your ruling. In fact, I have not the authority to do so. I respectfully submit to your ruling if that is the final one. But I think what Shri Gupta and Shri Pande suggest have a great deal of substance. The difference in the two Houses was not on the question whether the explanation should be limited to Rs. 2,000/- or to Rs. 500/-, but whether it was necessary at all being implicit in the definition itself. If Rs. 2,000/- or Rs. 500/- go into the explanation, it will mean that pure gifts out of natural love and affection beyond Rs. 2,000/- would be penalised. That has been nobody's intention either in the Lok Sabha or in the Rajya Sabha. In fact, we cannot penalise pure voluntary gifts.

Shri N. R. Ghosh (Cooch-Behar): It will nullify the main section.

Shri Sinhasan Singh (Gorakhpur): The House is competent to put a limit to the explanation.

Shri A. K. Sen: If Shri Sinhasan Singh reads the amendment to the explanation, he will see that if the amendment like that of Shri Vajpayee is carried, it will mean that even voluntary gifts out of natural love and affection beyond Rs. 2,000/- might be regarded as bad.

Mr. Speaker: I have heard the hon. Law Minister. There are two views. The explanation was necessitated by the sponsors of the amendment by way of an explanation in the Lok Sabha for the reason that they were not sure whether presents however well they might have been intended. not as an inducement for the purpose of marriage but independently out of love and affection, will be considered as dowry. There has been honest difference of opinion as to whether they would be included within the word 'dowry' or they would not be included as the hon. Law Minister contends. That was the need for this explanation. The hon. Law Minister not only once but several times, both in the beginning and in the concluding stage of his speech said that the explanation is not necessary and that without the explanation these presents can be made. But there are hon. Members who will not agree with that opinion. They are afraid that the courts may take a different view. For that purpose they want to have the explanation. The position is that if the view should prevail, the word 'dowry' as it is, without the explanation, will debar any kind of a present. Therefore is it not better to have presents limited to Rs. 2,000/- rather than dispose of all presents? The hon. Law Minister's opinion is not the last word so far as this matter is concerned. I am not saying so; I am prepared to accept his opinion, but hon. Members who persist do not accept the hon. Law Minister's opinion as the last word in this matter. The courts may take a different view. The courts may say that the definition of dowry prevents even presents. Therefore Shri Vajpayee says that it is better, having not got two eyes, to have at least one eye. That is exactly his point. Therefore it is settled. There is no question of penalising. He wants at least to save a few presents from the category of "dowry".

Now I will put amendment No. 12..

An Hon. Member: No. 10 may be put first.

Mr. Speaker: Out of all these amendments which mention rupees two thousand, rupees five hundred and so on, the one which mentions the highest figure will be put to the vote of the House first. I will first put the amendment (No. 10) which mentions two thousand rupees, and thereafter the one mentioning five hundred rupees.

Shrimati Renu Chakravartty: And the one which mentions rupees fifty-one.

Mr. Speaker: I will now put amendment No. 10 to vote.

The question is:

Page 2, line 4,—

after "articles" insert—

"of a value not exceeding two thousand rupees". (10).

The motion was negatived.

Mr. Speaker: Now I come to amendment No. 12 which says: Page 2, line 4,—after "articles" insert—"not exceeding two thousand rupees in value in the aggregate". Is not amendment No 12 barred? I think the House has given its view and I do not think it is going to change it. So amendments Nos. 10 and 12 go together.

Then I come to amendment No. 11

The question is:

Page 2, line 4,—

after "articles" insert—

"aggregate value of which will not exceed five hundred rupees" (11)

The motion was negatived.

Mr. Speaker: Now, need I put the other amendment about fifty-one rupees?

Shrimati Renu Chakravartty: Not necessary.

Mr. Speaker: There are no other amendments. So I shall put the clause....

Shri Kalika Singh: Amendment No. 28, which seeks to insert the words "particularly those associated with religious practice or usage"....

Shri A. K. Sen: That is out of order. There was no difference between the Houses on that point. Things necessary for religious purposes were not regarded as "dowry".

Shri Kalika Singh: Then I may come and explain my point of view..

Several Hon. Members: Vote, vote.

Mr. Speaker: Order, order. Hon. Members ought not to make it impossible for an hon. Member to express his views. Freedom of speech is the very essence of democracy. But apart from that, I will look into the amendment.

This is not one of the matters on which there was a difference of opinion. With regard to the point whether these clothes etc. ought to be restricted to these essential religious ones or should be extended to all kinds of clothes and so on, the general thing will include the particular one also.

Mr. Speaker: I shall now put amendment No. 5 to the vote of the House.

The question is:

Page 2, *omit* lines 1 to 6.

To make the point clear, I may state that this amendment seeks to omit Explanation I to clause 2. Those in favour of this amendment seeking to omit Explanation I to clause 2 may say "Aye".

Some Hon. Members: "Aye".

Mr. Speaker: Those against may say "No".

Some Hon. Members: "No".

Mr. Speaker The 'Ayes' have it, I think.

Some Hon. Members: The 'Noes' have it.

Mr. Speaker: Division. Hon. Members will kindly sit in their seats. Order, order.

Is there a new rule of procedure? Hon. Members will kindly sit while I am standing. I am really surprised. We belong to the two Houses of Parliament which are regulated by the same rules of procedure and decorum. What is this kind of indecorous behaviour?

An Hon. Member: Excitement.

Mr. Speaker: There is no need for excitement.

Order, order. Hon. Members will kindly bear with me. There are a number of persons in the Lobbies. I have to get the Lobbies cleared. There are some hon. Members here or there. I must give them notice to come. They must come. Afterwards, the doors will be closed. If there is a margin, hon. Members will ask me once again to count. Is it not so? Let the Lobbies be cleared first.

The Lobby has been cleared. I have now to put the question once again to the vote of the House, and if still I find that the difference persists, I shall direct hon. Members to go to the one Lobby or the other.

The question is:

Page 2, *omit* lines 1 to 6. (5).

Division took place.

AYES

Abha Maity, Kumari
Ahmad Hussain, Kazi
Ajit Singh Bhatinda, Shri
Ali, Shri Mohammad
Alva, Shrimati Violet
Ambalam, Shri P. Subbaiah
Amjad Ali, Shri
Anis Kidwai, Shrimati
Awasthi, Shri Jagdish
Babunath Singh, Shri
Bahadur Singh, Shri
Banerjee, Shri S.M.
Bangshi Thakur, Shri
Bansi Lal, Shri
Barlingay, Dr. W.S.
Barupal, Shri P.L.
Bedavati Buragohain, Shrimati
Bhatkar, Shri L.S.
Bhogji Bhai, Shri P.B.
Brajeshwar Prasad, Shri
Braj Narayan "Brajesh", Pandit
Chakravartty, Shrimati Renu
Chandravati Lakhanpal, Shrimati
Chaturvedi, Shri B.D.
Chauhan, Shri Nawab Singh
Chavda, Shri K.S.
Chuni Lal,Shri
Daljit Singh, Shri
Damar, Shri A.S.
Dange, Shri S.A.
Das Gupta, Shri B.B.
Dasaratha Deb, Shri
Daulta, Choudhury P.S.
Dave, Shri Rohit M.
Deokinandan Narayan, Shri
Deshmukh, Dr. K.G.
Dey Shri, S.K.
Dige, Shri S.K.
Dikshit, Shri U.S.
Dutt, Shri Krishan
Dwivedi, Shri M.L.
Elias, Shri M.
Gaikwad, Shri B.K.
Ganga Devi, Shrimati
Ganpati Ram, Shri
Ghosal, Shri Aurobindo
Ghose, Shri Bimal Comar
Godsora, Shri S.C.
Gohokar, Dr. D.Y.
Gopalan, Shri A.K.
Goray, Shri N.G.
Gour, Dr. R.B.
Gupta, Shri Bhupesh
Gupta, Shri Indrajit
Gupta, Shri Ram Krishan
Hardiker, Dr. N.S.
Harvani, Shri Ansar
Hem Raj, Shri
Hynniewta, Shri Hoover
Iqbal Singh, Sardar
Jadhav, Shri Yadav Narayan
Jaipal Singh, Shri
Jedhe, Shri G.K.
Joshi, Shri A.C.
Joshi, Shri J.H.
Joshi, Shrimati Subhadra
Jugal Kishore, Shri
Kamble, Shri B.C.
Kamble,Dr. D.N. Pathrikar
Kapoor, Shri Jaspat Roy
Kar, Shri Prabhat
Kashiram, Shri V.
Kesar Kumari Devi, Shrimati
Khan, Shri Pir Mohammed
Khushwaqt Rai, Shri
Kodiyan, Shri P.K.
Koratkar, Shri V.R.
Kotoki, Shri Liladhar
Kulkarni, Shri G.R.
Kumaran, Shri M.K.
Kumbhar, Shri B.
Kunhan, Shri P.
Kureel, Shri B.N.
Kureel Urf Talib, Shri P.L.
Kuree, Shri Dayaldas
Lachhi Ram, Shri
Lahiri, Shri J.N.
Lakshmi N. Menon, Shrimati
Laskar, Shri N.C.
Lingam, Shri N.M.
Lonikar, Shri R.N. Yadav
Mafida Ahmed, Shrimati
Mahesh, Saran, Shri
Malviya, Shri Motilal
Malviya, Shri R.K.
Matin, Shri S.A.
Melkote, Dr. G.S.
Menon, Shri T. C. N.
Minimata Agamdas Guru, Shrimati
Misra, Shri R.R.
Misra, Shri S.D.
Mitra, Shri P.C.
Mohammad Ibrahim, Hafiz
Mohan Swarup, Shri
Mukerjee, Shri H.N.
Muni Swamy, Shri N.R.
Nadar, Shri P. Thanulingam
Nafizul Hasan, Shri
Nagpure, Shri V.T.
Nair, Shri C.K.
Nair, Shri P.K.Vasudevan
Nallamuthu Ramamurti,Shrimati T.
Narain Din, Shri
Narasimham, Shri K.L.
Narayanawsami, Shri R.
Nath Pai, Shri
Nayar, Dr. Sushila
Neki Ram, Shri
Pahadia, Shri Jagan Nath Prasad
Pande, Shri T.
Pandey, Shri Sarjoo
Pangarkar, Shri N.K.

16.55 hrs.

Panigrahi, Shri Chintamani
Panjhazari, Sardar Raghbir Singh
Panna Lal, Shri
Parmanand, Dr. Shrimati Seeta
Parmar, Shri Din Bandhu
Parmar, Shri Karsandas
Parulekar, Shri S.V.
Parvathi Krishnan,Shrimati
Patel, Shri Dahyabhai V.
Patil, Shri Balasaheb
Patil, Shri Nana
Patil, Shri R.D.
Patil, Shri V.P.
Prabhakar, Shri Naval
Punnaiah, Shri Kota
Punnoose, Shri P.T.
Pushpalata Das, Shrimati
Radha Mohan Singh,Shri
Raghuramaiah, Shri Kotha
Rajagopalan Shri G.
Rajendra Singh, Shri
Ramam,Shri Uddaraju
Ramamurti, Shri P.
Ranbir Singh Chaudhri,Shri
Rao, Shri D.V.
Rao, Shri, S.V. Krishanamoorthy
Rao, Shri T.B. Vittal
Rao,Shri V.C. Kesava.
Reddy,Shri Mulka Govinda
Reddy,Shri T.Nagi
Reddy,Shri S. Channa
Rungsung Suisa,Shri
Sadhu Ram, Shri
Sahai, Shri Ram
Samuel, Shri M.H.
Savitry Devi Nigam,Shrimati
Savnekar,Shri Baba Saheb
Seeta Yudhvir,Shrimati
Shah,Shrimati Jayaben V.
Shankuntala Devi,Shrimati
Shankar Deo, Shri
Shanta Vasisht, Kumari
Shanti Devi,Shrimati
Shrimali,Dr. K.L.
Siddiah,Shri S.M.
Singh,Sardar Budh
Singh,Sardar Mohan
Singh,Shri P.N
Singh,Shri Vijay
Singh,Sardar Zail
Sinha,Shri B.K.P.
Sinha, Shri Ganga Sharan
Sinha,Shri Rajendra Pratap
Sinhasan Singh,Shri
Solomon,Shri P.A.
Subha Rao, Dr. A.
Subbarayan,Dr.P.
Sumat Prasad,Shri
Swami,Shri V.N.
Tajamul Hussain,Shri

Tewari,Shri Dwarika Nath
Tumpalliwar Shri M.D.
Umarao Singh, Shri
Upadhyay,Pandit M.D.
Verma,Shri Ramji
Vijaivargiya,Shri Gopikrishna
Warerkar,Shri B.V. (Mama)
Warior,Shri K.K.
Wasnik,Shri Balkrishna
Yadav,Shri Ram Sewak
Yajee,Shri Sheel Bhadra

NOES

Abdul Latif (of Bijnor), Shri
Abdur Rahman, Maulana
Achal Singh, Seth
Achar, Shri K. R.
Achint Ram, Lala
Agadi, Shri S. A.
Agarwal, Shri Manakbhai
Agrawal, Shri J. P.
Akhtar Hussain, Shri
Ambalam, Shri P. Subbiah
Aney, Dr. M. S.
Annapurna Devi Thimmareddy, Shrimati
Anwar, Shri N. M.
Arora, Shri Arjun
Ashanna, Shri K.
Assar, Shri P. R.
Asthana, Shri Lila Dhar
Bakliwal, Shri M. L.
Balakrishnan, Shri S. C.
Balmiki, Shri K. L.
Banerji, Shri P. B.
Barooah, Shri Lila Dhar
Basu, Sbri Santo
Bhagavati, Shri B.
Bhargava, Shri M
Bhargava, Pandit Thakur Das
Bhawani Prasad, Shri
Bholi Sardar, Shri
Bidari, Shri R. B.
Birbal Singh, Shri
Bisht, Shri J. S.
Bist, Shri J. V. S.
Biswas, Sri Bholanath
Brahm Prakash, Choudhry
Chandak, Shri B. L.
Chandra Shankar, Shri
Chatterji, Shri J. C.
Chaturvedi, Shri Rohan Lal
Chettiar, Shri Ramanathan
Choudhry, Shri C. L.
Damani, Sbri S. R.
Das, Shri K. K.
Das, Dr. M. M.
Das, Shri N. T.
Dasappa, Shri H. C.
Datar, Sbri B. N.
Deb, Shri S. C.
Desai, Sbri Janardhan Rao
Dindod, Shri J. K.
Dinesh Singh, Shri
Drohar, Shri S.
Eacharan, Shri V.
Ering, Shri Daying
Ganapathy, Sbri T.
Gandhi, Shri M. M.
Ghodasar, Thakore Shri Fatehsinhji
Ghose, Shri Surendra Mohan
Ghosh, Shri M. K.
Ghosh, Shri N. R.
Gilbert, Shri A. C.
Gounder, Shri K. P.
Gupta, Shri C. L.
Gurudeo, Shri
Hagjer, Shri J. B.
Hansda, Shri Subodh
Hazarika, Shri J. N.
Hukam Singh, Sardar
Jangde, Shri R. L.
Jhunjhunwala, Shri B. P.
Jogendra Singh, Sardar
Jyotisbi, Pandit J. P.
Kalika Singh, Shri
Karmarkar, Shri D. P.
Kasliwal, Shri Nemi Chandra
Kedaria, Shri C. M.
Keshava, Shri N.
Keskar, Dr. B. V.
Khadilkar, Shri R. K.
Khadiwala, Shri Kanhaiya Lal
Khan, Shri Akbar Ali
Khan, Shri Osman Ali
Khanna, Shri Mehr Chand
Khawaja, Shri Jamal
Kiledar, Shri R. S.
Kisbori Ram, Shri
Kripalani, Shri J. B.
Krishna Kumari, Shrimati
Krishna, Shri M. R.
Krishna Chandra, Shri
Kunzru, Dr. H. N.
Laskar, Shri N. C.
Laxmi Bai, Shrimati Sangam
Lohani, Shri I. T.
Madhok, Shri Balraj
Maiti, Shri N. B.
Malbotra, Shri Inder J.
Malvia, Shri K. B.
Mandal, Shri J.
Mani, Shri A. D.
Maniyangadan, Shri Mathew
Masuriya Din, Shri
Mathen, Shri Joseph
Mathur, Shri Harish Chandra
Maya Devi Chettry, Shrimati
Mazhar Imam, Syed
Mehdi, Shri S. A.
Mehta, Shrimati Krishn..
Menon, Dr. K. B.
Mishra, Shri B. D.
Mishra, Shri M. P.
Modi, Shri J. K.
Mohammad Akbar, Shaikh
Mohideen, Shri M. Gulam
Modhiuddin, Shri Ahmed
Morarka Shri, R. R.
More, Shri J. G.
Murmu, Shri Paika
Murti, Shri M. Suryanarayana
Musafir, Shri G. S.
Muthukrishnan, Shri M.
Naik, Shri Maheswar
Nair, Shri K. P. Madhavan
Narasimha Rao, Dr. K. L.
Narasimhan, Shri C. R.
Naskar, Shri P. S.
Negi, Shri Nek Ram
Nehru, Shrimati Uma
Neswi, Shri T. R.
Onkar Lal, Shri
Oza, Shri Ghanshyamlal
Padam Dev, Shri
Paliwal, Shri Tikaram
Pande, Shri C. D.
Patel, Shri Maganbhai S.
Patel, Shri P. R.
Patel, Shri Rajeshwar
Pathak, Shri G. S.
Patil, Shri T. S.
Patil, Shri U. L.
Pillak, Shri Thanu
Radha Raman, Shri
Raghubir Singh, Dr.
Raghunath Singh, Shri
Rai, Shrimati Sahodra Bai
Ram Garib, Shri
Ram Saran, Shri
Ram Subhag Singh, Dr.
Ramananda Tirtha, Swami
Ramaswamy, Shri P.
Ramsul, Shri S. N.
Ram Dhani Das, Shri
Rampure, Shri M.
Rane, Shri Shivram Rango
Ranga, Shri N. G.
Rangarao, Shri M. Sri
Rao, Shri R. Madhusudan
Reddi, Dr. B. Gopala
Reddi, Shri J. C. Nagi
Reddy, Shri A. Balarami
Reddy, Shri K. V. Ramakrishna
Reddy, Sbri V. Rami
Roy, Shri Bishwa Nath
Rup Narain, Shri

Sahu, Shri Rameswar.
Saigal, Sardar A. S.
Samanta, Shri S. C.
Samantsinhar, Dr. N. C.
Sanghi, Shri N. K.
Sapru, Shri P. N.
Sarbadi, Shri Ajit Singh
Satyabhama Devi, Shrimati
Satyacharan, Shri
Satyanarayana Shri B.
Saku, Shri Mardi
Sen Shri P. G
Sethi, Shri P. C.
Shah, H. H. Maharaja Manabendra
Shakoor, Moulana Abdul
Shanti Devi, Shrimati
Sharda Bhargava, Shrimati
Sharma, Shri D. C.
Sharma, Pandit K. C.
Sharma, Shri L. Lalit Madhob
Sharma Shri R. C
Shastri, Swami Ramanand
Shervani, Shri M. R.
Shetty, Shri B. P. Basappa
Shobha Ram, Shri
Shree Narayan Das, Shri
Siddananjappa, Shri H.
Singh, Thakur Bhanu Pratap
Singh Ju Deo, Shri C. Sharan
Singh, Shri H. P.,
Singh, Shri Kamal Narayan
Singh Sardar, M. N.
Singh, Shri Rajendra Pratap
Sinha, Shri Aniruddha
Sinha, Shri B. P.
Sinha, Shri Jhulan
Sinha, Shri K. P.
Sinha Dinkar, Prof. R. D.
Sinha, Shri Sarangdhara
Sinha, Shri Satya Narayan
Snatak, Shri Nardeo
Sonavane, Shri T. H.
Subramanyam, Shri T.
Tahir, Shri Mohammed
Tankha, Pandit S. S. N.
Tariq, Shri A. M.
Thakore, Shri M. B.
Tiwari, Pandit Babu Lal
Tiwari, Shri R. S.
Tiwary, Pandit D. N.
Tripathi, Shri H. V.
Tula Ram, Shri
Tyagi, Shri Mahavir
Uikey, Shri M. G.
Umair, Shah Mohammad
Upadhyaya, Shri Shiva Datt
Vairvan, Shri A.
Vajpayee, Shri Atal Bihari
Valvi, Shri Laxman Vedu
Varma, Shri B. B.
Varma, Shri M. L.
Varma, Shri Ramsingh Bhai
Bedakumari, Kumari M.
Vyas, Shri Jai Narain
Vyas, Shri R. C.
Wilson, Shri J. N.
Wodeyar, Shri K. G.
Yashoda Reddy, Shrimati

Shri Jangde: Before you announce the result, I should submit that there are many hon. Members who want to retain the Explanation but who have voted for 'Ayes'.

Mr. Speaker: It may be that here and there, one or two Members might have misunderstood. There is no harm.

The result of the Division is as follows:

Ayes: 192; Noes: 230.

17·18 hrs.

The motion was negatived.

Now, clause 2 has been amended by the insertion of the words "either directly or indirectly", and the Explanation continues. I shall put clause 2, as amended, to the vote of the House.

The question is

That clause 2, as amended, which reads as follows stand part of the Bill:—

"2. In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly—

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;

at or before or after the marriage as consideration for the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation I.—For the removal of doubts, it is hereby declared that any presents made at the time of a marriage to either party to the marirage in the form of cash, ornaments, clothes or other articles, shall not be deemed to be dowry within the meaning of this section, unless they are made as consideration for the marriage of the said parties.

Explanation II.—The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code.

The motion was adopted.

[Mr. Speaker]

Clause 2, as amended, was added to the Bill.

Clause 3 which reads as follows, was added to the Bill:—

"3. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

Clause 4.— (*Penalty for demanding dowry.*

Mr. Speaker: We shall now take up clause 4. Motion moved:

That clause 4, which reads as follows, stand part of the Bill:—

"4. If any person, after the commerce ment of this Act, demands, directly or indirectly, from the perents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both."

Some hon. Members have tabled amendments.

Shri Bhupesh: Sir, before you put this clause to vote, I want to make one submission. This alleged clause 4—I will tell you why I say 'alleged'—should be dealt with in two parts. The amendment the hon. Deputy Law Minister has tabled refers to clause 4 on page 2 and wants it to be substituted by his amendment. We had an agreed clause 2. That is to say, both the Houses agreed with regard to the particular things put in clause 2. As far as clause 4 is concerned, on the very substance of clause 4 the difference arose. That is to say, the Lok Sabha was good enough to include the first part of what is contained in the amendment given by the hon. Deputy Law Minister. The Rajya Sabha deleted it. The result is that before the joint session we do not have any agreed clause—clause 4—to which the Law Minister can move an amendment in the manner in which he moved it. Therefore, since we do not have any agreed clause 4, and since this is the point at issue between the two Houses, we have to take vote on the proposal as made by the Lok Sabha, that is to say, what is stated in the first paragraph of the amendment given by the Deputy Minister of Law. This cannot be taken together.

Mr. Speaker: Order, order.

Shri Bhupesh Gupta: If it were a question of clause 4 as a whole in the Bill before us, in the agreed text of the Bill as passed by the two Houses, then probably the Law Minister's amendment would have been in order in the sense that he could have said: "Clause 4 be rewritten in this particular form" or some such thing. But before this joint session there is no such thing. On the other hand, there is a controversy, namely, whether the clause as passed by the Lok Sabha should remain or—

Mr. Speaker: I shall put those things separately.

Shri Bhupesh Gupta:—whether the punishment should remain or should go. The controversy arose between the two Houses. Therefore, I would submit that you cannot follow the analogy of clause 2. What we have to do is to put the first part . . .

Mr. Speaker: I am agreeable; he need not convince me. I am going to put the two parts separately.

Shri Bhupesh Gupta: Which will come first?

Mr. Speaker: Whichever will come first, I will then indicate.

Shri Bhupesh Gupta: I submit that the first thing should come first.

Mr. Speaker: Very well; I want to know which are the amendments that hon. Members would like to move.

The Deputy Minister of Law (Shri Hajarnivis): I beg to move:

Page 2,—

for clause 4, *substitute*—

"4. If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be publishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both;

Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf." (23).

Shri Vajpayee: I beg to move:

page 2, line 14;—

omit "directly or indirectly" (15).

Shri Ram Sewak Yadav: I beg to move.:

That in the amendment proposed by Shri R. M. Hajarnavis, printed as No. 23 in List No. 3 of amendments,—

Omit the Proviso. (31).

Shri Goray: I beg to move:

That in the amendments proposed by Shri R. M. Hajarnavis, printed as No. 23 in List No. 3 of amendments,—

for the Proviso, *substitute*—

"Provided that no court shall take cognizance of any offence under this section except with the previous sanction of any magistrate of first class or second class to whom such authority has been delegated, by general or special order, by the district magistrate". (33)

Shri N. R. Muniswamy: I beg to move:

Page 2,—

after line 17, add—

"Provided that the complainant shall deposit a cash security of a sum of one thousand rupees in the court before filing his complaint as a proof of his genuineness." (34).

Shri Kalika Singh: I have also an amendment No. 29.

Mr. Speaker: For the main amendment tabled by the Deputy Law Minister, there are some amendments. Therefore, those amendments must be put first. After those amendments, I will put the main amendment to the vote of the House. He wants the amendment to be put in two parts. I will put the amendments to the proviso and the original clause also separately. There are amendments to the proviso as well as to the earlier portion. Regarding Shri Kalika Singh's amendment No. 29, I understood that the earlier portion together with the proviso was bodily taken from the amendment tabled by Shri Hajarnavis.

Shri Kalika Singh: In my amendment I have only put in one more proviso which says:

"Provided further that the State Government or the officer aforesaid shall not hold an open enquirey in respect of the complaint and shall not sanction the prosecution without affording an opportunity to the person alleged to have committed the offence."

Mr. Speaker: Shall I place it before the House? We are now dealing with the amendments to the amendment tabled by Shri Hajarnavis. To that amendment Shri Kalika Singh wants to add a further proviso.

श्री प्र० ना० सिंह : अध्यक्ष महोदय, माननीय सदस्य, श्री कालिका सिंह ने ।

[श्री प्र० ना० सिंह]

अमेंडमेंट रखा है, वह श्री हजरनवीस के अमेंडमेंट पर अमेंडमेंट नहीं है, बल्कि वह ओरिजनल बिल के क्लाज ४ की जगह पर सब्स्टीट्यशन है । इसलिये इसको अमेंडमेंट की अमेंडमेंट के प में नहीं रखा जा सकता है ।

Mr. Speaker: The hon. Member says that Shri Kalika Singh's amendment says: "Page 2,—for clause 4, substitute—" and, therefore, it is substitution and not an amendment to the amendment of Shri Hajarnavis. But I treat it as an amendment for the reason that the earlier two portions have been taken verbatim from what Shri Hajarnavis has given by way of an amendment. Shri Kalika Singh only wants to add a further proviso to that amendment.

Shri P. N. Singh: The whole question is this. So far as the amendment of Shri Kalika Singh is concerned, if it is treated as an amendment it is an amendment to clause 4 seeking for its substitution. The amendment of Shri Hajarnavis also seeks to substitute clause 4.

Mr. Speaker: I will put only the further provision that he has added. I will not put the whole substitute motion.

Shri P. N. Singh: How can it be separated?

Mr. Speaker: I am separating it.

Shri P. N. Singh: Can that be done?

Mr. Speaker: The hon. Member has not been following what has been going on. The first two portions of Shri Kalika Singh's amendment are only a copy of Shri Hajarnavis's amendment. He has added a new proviso. That is why I permitted him to read it. I will not put the whole thing to the vote of the House. I will put only the proviso that he has added as an amendment to the amendment tabled by Shri Hajarnavis.

Shri P. N. Singh: Sir, I rise to a point of order. I want your ruling on this point. Shri Kalika Singh has given his amendment in writing. I want to know whether after giving an amendment in writing, after coming before the House one can change his amendment saying that his intention is such and such?

Mr. Speaker: I have understood his point of order. When an amendment is tabled by an hon. Member running over a particular clause, at the time he moves it I can permit omission of certain of the provisions in his amendment—unless that amendment had been moved already—and ask him to confine himself to one proviso or something like that. I shall now put only that one proviso to the vote of the House.

Shri Jaspat Roy Kapoor (Uttar Pradesh): What I am going to submit is surely not of much consequence, but then I only want to bring it to your notice that the form of the amendment of Shri Kalika Singh, so far as the first two paragraphs are concerned, is not exactly the same as the amendment of Shri Hajarnavis because you will find that in the first paragraph Shri Kalika Singh has said that.....

Shri Kalika Singh: Sir, I do not move amendment No. 29.

Mr. Speaker: Very well.

Shri Vajpayee: Now the amendment is the property of the House. The hon. Minister of Parliamentary Affairs is exercising coercion.

Mr. Speaker: All hon. Members, *sui juris*, are able to take care of themselves as Shri Vajpayee is able to take, care of himself. The point is that I have not formally placed this amendment before this House. Only when I do so, the House will be seized of this amendment.

Then, next is amendment No. 33.

An Hon. Member: Sir, there is amendment No. 31.

Mr. Speaker: Can I not choose the order in which to place them before the House? I will come to amendment No. 31 also. Amendment No. 31 is about omission. That will come up later. I am not going to ignore it. Amendment No. 33 is by Shri Goray.

Shri A. K. Sen: That is not to be put.

Mr. Speaker: Is it not pressed?

Shri Goray: I press it.

Mr. Speaker: He presses it. It reads:

That in the amendment moved by Shri R. M. Hajarnavis, printed as No. 23 in List No. 3 of amendments,—

for the Proviso, *substitute*—

> "Provided that no court shall take cognizance of any offence under this section except with the previous sanction of any magistrate of first class or second class to whom such authority has been delegated, by general or special order, by the district magistrate." (33).

So, in effect he does not want to entrust the power of appointing an officer to try these cases or to give the sanction. He wants to entrust it to the district magistrate and his subordinates at his discretion. That is the essence of it. I shall now put it to the vote of the House.

The amendment was put and negatived.

Mr. Speaker: Now, the next amendment is No. 34.

Shri A. K. Sen: It is not pressed.

Mr. Speaker: No. 34 reads:

after line 17, *add*—

> "Provided that the complainant shall deposit a cash security of....."

Shri P. N. Singh: Sir, amendment No. 31 is there.

Mr. Speaker: I am coming to that. I know that so much of discussion has been there over the question of omission or retention of this proviso. I am not going to ignore it. Why is he so anxious and in such a hurry? I will first dispose of other amendments. Amendment No. 34 reads as follows:

Page 2,—after line 17, add—"Provided that the complainant shall deposit a cash security of a sum of one thousand rupees in the court before filing his complaint as a proof of his genuineness."

He spoke about it.

Shri A. K. Sen: Amendment No. 34 is not, I think, pressed.

Shri N. R. Muniswamy: I have not withdrawn it.

Mr. Speaker: Need I put the amendment No. 34 or not? The hon. Member has not made up his mind.

Shri N. R. Muniswamy: I withdraw it.

Mr. Speaker: Amendment No. 34 is not pressed. Has the hon. Member leave of the House to withdraw his amendment No. 34?

Some Hon. Members: Yes.

The amendment was, by leave, withdrawn.

Mr. Speaker: Then I come to amendments Nos. 15 and 23. Amendment No. 15 seeks to omit the words "directly or indirectly" in page 2, line 14. It has been carried in the other portion.

Shri Vajpayee: That is why it should be deleted here.

Mr. Speaker: Does the hon. Member press it?

Shri Vajpayee: Yes, Sir.

Mr. Speaker: I shall treat it as an amendment to the amendment of Shri Hajarnavis. The amendment (No. 23). of Shri Hajarnavis is a substitute motion. There also the words "directly or indirectly" are used. Therefore, I will treat it as an amendment to the substitute clause.

The question is:

In amendment No. 23 moved by Shri Hajarnavis.

Omit the words "directly or indirectly" (15).

The motion was negatived.

Mr. Speaker: Then I come to amendment No. 23. Before that, there is amendment No. 31 which is an amendment to amendment No. 23. Amendment No. 23 contains a proviso to the effect that "Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf."

Amendment No. 31 seeks to omit this proviso. I shall first put amendment No. 31 to the vote.

The question is:

"That in the amendment by Shri R. M. Hajarnavis, printed as No. 23 in List No. 3 of amendments,—

omit the Proviso." (31).

I think the 'Noes' have it.

Some Hon. Members: The 'Ayes' have it.

Mr. Speaker: Those in favour of the amendment, that is for omitting the proviso, will kindly stand in their seats.

Some Hon. Members *rose*—

Mr. Speaker: I request hon. Members who are for retention of this proviso to kindly rise in their seats.

Several Hon. Members *rose*—

Mr. Speaker: The may resume their seats. Those for commission of the proviso have been counted to be fifty. The amendment is lost by an overwhelming majority.

The motion was negatived.

Mr. Speaker: I shall now put Shri Hajarnavis's amendment seeking to substitute clause 4 to the vote of the House.

The question is:

Page 2, *for* clause 4, *substitute*:—

Penalty for demanding dowry.—"4. If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both;

Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf." (23).

The motion was adopted.

Substitute clause 4 was added to the Bill.

Clause 1— (*Short title, extent and commencement*)

Shri Hajarnavis: I beg to move:

Page 1, line 3, *for* '1960' *substitute* '1961'. (2).

Mr. Speaker: The question is:

Page 1, line 3, *for* '1960' *substitute* '1961'.

The motion was adopted.

Mr. Speaker: The question is:

"That clause 1, as amended, which reads as follows, stand part of the Bill:—

Short title, extent and commencement.—'1. (1) This Act may be called the Dowry Prohibition Act, 1961.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.'.".

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Shri Hajarnavis: I beg to move:

Page 1, line 1, *for* 'Eleventh Year' *substitute* 'Twelfth Year'. (1).

Mr. Speaker: The question is:

Page 1, line 1, *for* 'Eleventn Year' *substitute* 'Twelfth Year'.

The motion was adopted.

Mr. Speaker: The question is:

"That the Enacting Formula, as amended, which reads as follows, stand part of the Bill:

'Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—'.".

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

Clauses 3, 5, 6, 7, 8, 9 and 10.

Mr. Speaker: As for the other clauses, there is no dispute or difference over them. Formally, I shall put all the other clause to vote.

The question is:

"That clause 3, which reads as follows, stand part of the Bill:

Penalty for giving or taking of dowry.—'3. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.'.

That clause 5, which reads as follows, stand part of the Bill:

Agreement for giving or taking of dowry to be void.—'5. Any agreement for the giving or taking of dowry shall be void.'.

That clause 6, which reads as follows, stand part of the Bill:—

Dowry to be for the benefit of the wife or her heirs.—'6. (1) where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman—

(a) if the dowry was received before marriage, within one year after the date of marriage; or

(b) if the dowry was received at the time of or after the marraige, within one year after the date of its receipt; or

(c) if the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years;

and pending such transfer, shall hold it in trust for the benefit of the woman.

(2) If any person fails to transfer any property as required by sub-section (1) and within the time limited therefor, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; but such punishment shall not absolve the person from his

[Mr. Speaker]

obligation to transfer the property as required by sub-section (1).

(3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

(4) Nothing contained in this section shall affect the provisions of section 3 or section 4.'.

That clause 7, which reads as follows, stand part of the Bill:—

Cognizance of offences—'7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,—

(a) no court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act;

(b) no court shall take cognizance of any such offence except on a complaint made within one year from the date of the offence;

(c) it shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorised by this Act on any person convicted of an offence under this Act.'.

That clause 8, which reads as follows, stand part of the Bill:—

Offences to be non-cognizable bailable and non-compoundable.—'8. Every offence under this Act shall be non-cognizable, bailable and non-compoundable.'.

That clause 9, which reads as follows, stand part of the Bill:—

Power to make rules.—'9. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.'.

That clause 10, which reads as follows, stand part of the Bill:—

Repeals '10. The Andhra Pradesh Dowry Prohibition Act, 1958, and the Bihar Dowry Restraint Act, 1950, are hereby repealed.'.".

The motion was adopted.

Clauses 3, 5, 6, 7, 8, 9 and 10 were added to the Bill.

Mr. Speaker: The question is:

"That the Title, which reads as follows, stand part of the Bill:—

'A Bill to prohibit the giving or taking of dowry'."

The motion was adopted.

The Title was added to the Bill.

Shri A. K. Sen: I beg to move:

"That the Bill, as amended, be passed".

Mr. Speaker: The question is:

"That the Bill, as amended, be passed".

The motion was adopted.

Mr. Speaker: The Bill, as amended, is passed. The Joint Sitting is concluded.

17·49 hrs.

The Joint Sitting then concluded.

GIPND—LSII—542 (Aii)LS—19-5-61—1450